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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

Nos. 5850, 6000

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER; and all other persons similarly situated,

Plaintiffs-Appellants,

and

GEORGIA TOWNSEND, individually and on behalf of her dependent daughter, OMEGA MINOR,

Intervening Plaintiffs- Appellants.

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; DAVID L. DANIEL, Director, Cook County Department of Public Aid, and MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid,

Defendants-Appellees.

On Appeal from the United States District Court, Northern District of Illinois, Eastern Division

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BRIEF OF APPELLEES

OPINIONS BELOW

The opinion of the U.S. District Court, convening a three judge court, is reported at 314 F. Supp. 1078 (N.D. Ill. 1969). This opinion was handed down on March 28, 1969. (App. 36-41) The opinion and judgment of the three judge court, which dismissed the complaints, were entered on April 30, 1970, and are reported at 314 F. 2d 1082 (N.D. Ill. 1970) (App. 83-97). The order denying plaintiffs' motions to vacate the judgment and for reconsideration is unreported. (App. 103)

JURISDICTION

This is adequately set forth in the Appellants' Briefs.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Most of these are adequately set forth in the Appellants' Briefs. However, in addition to those provisions relied upon by the appellants, the appellees have mentioned various statutory sections which are set forth in Appendix D.

QUESTIONS PRESENTED

1) Whether Illinois and other states participating in the Aid to Families With Dependent Children Federal Program are required by the Supremacy Clause to extend benefits to the fullest extent possible under the Social Security Act, or whether Illinois may extend AFDC Benefits to one class of persons at a time as the availability of funds allows;

2) Whether the Illinois Public Aid Code's definition of a dependent child, which was adopted to substantially conform with the definition inserted into the Social Security Act by Congress in 1964, is irrational and discriminatory;

3) Whether the Illinois AFDC Program, which provides for aid to children between the ages of 18 and 21 who attend high school or vocational or technical school, but not to those who attend a college or university, violates the Equal Protection Clause of the Fourteenth Amendment.

STATEMENT

This appeal arises out of a class action which was brought to challenge the validity of Section 4-1.1 of the Illinois Public Aid Code [Ill. Rev. Stat. ch. 23, § 4-1.1, (1969)] and Illinois Public Aid Regulation 150 issued pursuant thereto. The District Court found that the Complaint stated a claim under 42 U.S.C. § 1983 and that it was a proper class action. A three judge court was convened under 28 U.S.C. Sections 2281 and 2284. (App. 36-41) All parties moved for Summary Judgment based on various affidavits and the pleadings. (App. 50, 51, 54, 55, 63, 64, 72, 73, 81, 82)

Suit was originally brought by Loverta Alexander, individually and on behalf of her minor son, Jerome Alexander. (App. 9-14) The latter graduated from Chicago Vocational High School in the summer of 1968. (App. 110) Although he majored in machine shop in high school, he did not apply for such a job after high school. (App. 112) In September of 1968 he enrolled in the liberal arts curriculum at Wilson Junior College. (App. 114) During the

first semester he passed eleven hours and failed four hours. (App. 116) In the second semester he passed nine hours and failed three hours (App. 116), giving him a total of twenty credit hours for one year. When he finishes college he hopes to be a basketball coach or a draftsman, but he has not taken any drafting yet. (App. 120) From November to April he spends approximately three hours a day playing basketball. (App. 117) He would not accept a part time job, even if someone found it for him, because it would interfere with basketball and because he wants to make it into the pros. (App. 134, 138)

Until November 1, 1968, Loverta Alexander received Aid to Families with Dependent Children (hereafter AFDC), a Federally assisted welfare program administered by the Illinois Department of Public Aid, both for herself and on behalf of her minor son, Jerome. (App. 9, 10, 43)

On October 4, 1968, Defendant Mae Withers, supervisor of the Woodlawn District Office of the Cook County Department of Public Aid, ordered termination of AFDC benefits; termination was to be effective November 1, 1968. (App. 12) The basis for the action was Section 4-1.1 of the Illinois Public Aid Code[1] and Illinois Pub-

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1. Section 4-1.1 of the Illinois Public Aid Code, Ill. Rev. Stat., ch. 23, § 4-1.1 (1967) provides:

Child Age Eligibility. The child or children must be under age 18, or age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school. 'Regular Attendance', as used in this Section, means attendance full time during the regular terms of such schools or attendance part time during such regular terms as may be authorized by

lic Aid Regulation 150,[2] which provide in effect that children who have been deprived of parental support and who are between 18 and 21 years of age are eligible for AFDC only if enrolled in high school, vocational school or technical training school. Jerome Alexander, as a junior college student enrolled in a liberal arts course, was therefore not eligible. Since the time that AFDC benefits were terminated, Mrs. Alexander has been receiving state general assistance benefits. The difference between the AFDC benefits and the general assistance benefits amounts to $23.52 per month. Her son Jerome also receives OASDI benefits. (Appellants Alexander's Brief, p. 11) (App. 53)

This action was instituted on November 8, 1968, against Harold O. Swank, David L. Daniel and Mae Withers, who were or are the officials responsible for the administration of AFDC benefits in Illinois (App. 10, 11)[3], and on March 12, 1969, Georgia Townsend intervened as a plaintiff both individually and on behalf of her minor daughter Omega Minor, and as a member of the class described in the original Complaint filed by Loverta Alexander. (App. 21-35)

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rule of the Illinois Department for the purpose of permitting the child to engage in employment which supplements his classroom instruction or which otherwise enhances his development toward a self-supporting status.

2. Illinois Public Aid Regulation 150 provides in part: Age Requirements—Dependent children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational or technical training school. (This does not include 18 through 20 year old children in college).

3. In 1971 Harold O. Swank resigned and was replaced by Edward J. Weaver as Director of the Illinois Department of Public Aid.

Omega Minor, the daughter of Georgia Townsend, was a student at South East Junior College (App. 174), a tuition free (to city residents) junior college established by the Illinois Legislature. [Ill. Rev. Stat. ch. 122, Sections 13-12 et seq. (1969)] In high school she had been in the upper five percent of her class and was valedictorian at graduation. (App. 172) The Cook County Department of Public Aid suggested that she get a part-time job, but she never did. (App. 175) She did not work or go to summer school during the summers after she started at South East Junior College because, she said, she would spend most of the day and sometimes part of the evening studying what she had last year and what she anticipated taking next year. (App. 178, 179) She had been on probation three out of the six semesters that she was in school, and she has repeated courses two or three times. (App. 80, 185, 186) If she had been on probation twice in a row, she would have been dropped from school, but she was never on probation twice in a row. Most of the time she was only taking nine hours per semester, which meant that she went to school on Mondays, Wednesdays and Fridays but not on Tuesdays or Thursdays. (App. 185) After attending Junior College for three years, she had approximately forty credit hours, or approximately thirteen credits per year. (App. 183, 184) She has never registered for employment, and she would not take part-time employment even if it was offered to her because of her duties of taking care of her mother. (App. 175, 176, 189) Her mother has been furnished on three occasions with housekeepers paid by the Cook County Department of Public Aid, but Mrs. Townsend was not satisfied with any of them. (App. 163) She might have had her lawyer with her at the time that she registered for AFDC benefits, she could not remember. (App. 180)

Since the time that AFDC benefits were terminated, Mrs. Townsend has been receiving an Aid to the Disabled grant. Her daughter initially received a general assistance grant which was cancelled when she refused to seek employment of some kind. (App. 177)

After various procedural matters were resolved, both the Plaintiffs and the Defendants moved for Summary Judgment. (App. 50, 51, 54, 55, 63, 64, 72, 73, 81, 82) The three judge court, which had been convened under the authority of 28 U.S.C. Sections 2281 and 2284, held that Section 4-1.1 of the Illinois Public Aid Code [Ill. Rev. Stat. ch. 23, Section 4-1.1 (1969)] and Illinois Public Aid Regulation 150 were consistent with the Social Security Act and did not violate the Equal Protection Clause. (App. 83-97) Accordingly, Summary Judgment was entered for the Defendants and against the Plaintiffs on April 30, 1970.

Plaintiffs' Motions to vacate judgment and to reconsider (App. 98-102) were denied on June 12, 1970 (App. 103), and the Plaintiffs filed Notices of Appeal on July 14, 1970. (App. 105-107) This Court noted probable jurisdiction on February 22, 1971. (39 U.S.L.W. 3359)

SUMMARY OF ARGUMENT

The definition of a "dependent child" which has been incorporated into the Illinois Public Aid Code was originally created by Congress in 1964. When Congress expanded the definition of dependent children in 1965, the State of Illinois was not able, because of its financial condition, to expand its AFDC program to the full extent permitted under Federal law. In choosing not to extend benefits to the maximum extent permissible under the Social Security Act, Illinois has acted in accordance with

the view expressed by Congress, that the welfare programs should be implemented as far as practicable under the conditions in each State.

The State classification which permits AFDC benefits to be extended to those who attend high school, technical or vocational schools, but not to those attending a college or university, is reasonable because there are substantial differences between the two classes created. Those attending a college or university have alternative benefits available which cannot be obtained by one attending a technical or vocational school. The latter class is in fact at a distinct disadvantage under Illinois law in obtaining an education, and the legislature must reasonably have considered the entire scheme of benefits available in creating the classification which is now challenged. In granting benefits to those attending vocational or technical schools, Illinois is helping those most in need. It is rational to give the limited funds available to those who are most in need, rather than covering a wider group of individuals with a lesser degree of benefits, especially when those who seek the benefits have many other substitute benefits available. The action which has been taken by the Illinois Legislature does not result in depriving minority children of a choice of education or in channelling minority children into an inferior type of education. Studies show that the greatest need in the next 10 years is not for college graduates, but rather for skilled technical workers, and a needy child's chances of employability are no better if he attends one to three years of college than if he attends a trade or vocational school. More importantly however, under the total scheme of Illinois laws, which the legislature is presumed to consider, benefits are equally available

to a minority child whether he chooses a trade or a profession. Illinois has alloted its limited AFDC benefits to those who are most in need of them, without in any way putting the college or university student at a disadvantage as far as total benefits are concerned. If the Illinois scheme is struck down, this Court will in fact be putting those needly children who desire a technical or vocational education at a distinct disadvantage.

Since the classification adopted by the State of Illinois is reasonable, and since the terminology used is adequately defined and subject to judicial supervision, there is no violation of the Due Process Clause of the United States Constitution.

Congress has consistently manifested that the States are free to adopt either a portion or all of the AFDC program, the outer limits of which are defined in 42 U.S.C. Section 606(a). Like numerous other states, Illinois has not had the funds available to participate in the full Federal program. This lack of total participation is consistent with Constitutional principles which allow a State to attack as much of a particular problem as its finances allow. If the appellants' arguments are accepted, Illinois is only one of numerous States which will be affected: Congress has before it legislation which would accomplish the result sought by the appellants, but has refused to pass that legislation. In the absence of a clear manifestation by Congress that the result urged by appellants is desired, this Court should not hold that the Supremacy Clause requires nationwide unformity in the A.F.D.C. program.

ARGUMENT

I.

THE CLASSIFICATION PRESENTLY CONTAINED IN SECTION 4-1.1 OF THE ILLINOIS PUBLIC AID CODE [ILL. REV. STAT. CH. 23, SECTION 4-1.1 (1969)], WHICH PROVIDES THAT AFDC BENEFITS CAN BE GRANTED TO CHILDREN BETWEEN THE AGES OF 18 AND 21 IF THEY ARE IN REGULAR ATTENDANCE IN HIGH SCHOOL OR IN A VOCATIONAL OR TECHNICAL TRAINING SCHOOL, WAS A CLASSIFICATION ORIGINALLY CREATED BY CONGRESS IN THE SOCIAL SECURITY ACT, AND THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT DOES NOT REQUIRE THAT THE STATE OF ILLINOIS AND OTHER STATES HAVING SIMILAR LAWS EXTEND AFDC BENEFITS TO THE FULLEST EXTENT POSSIBLE UNDER THE PRESENT SOCIAL SECURITY ACT.

Section 4-1.1 of the Illinois Public Aid Code, which is entitled "Child Age Eligibility", provides that the "child or children must be under age 18, or age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school" in order to receive benefits. [Ill. Rev. Stat. ch. 23, Section 4-1.1 (1969)] The Appellees herein concede that the Illinois Statute is not as broad as 42 U.S.C. Section 606(a), which in part defines a "dependent child" as a needy child who is under the age of eighteen or "under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college or university, or regularly

attending a course of vocational or technical training designed to fit him for gainful employment." The issue before this Court is whether this discrepancy in definitions violates the Equal Protection Clause of the United States Constitution. The appellees submit that there is no violation.

A.

The classification contained in Section 4-1.1 of the Illinois Public Aid Code is essentially the same as the classification created by Congress in Section 606(a) of the 1964 Social Security Act.

It is contended by the Appellants, who were denied a continuation of AFDC benefits after they reached age 18, that Illinois has created an invidious classification which discriminates against them in violation of the Equal Protection Clause of the United States Constitution. The truth of the matter is that Illinois never created the classification. The classification was originally created by Congress, and Illinois is involved in this suit simply because its finances do not allow it to take advantage of Congress' broadening of the Social Security Act in 1965 to extend benefits to children over 18 who are enrolled in a college or university.

Prior to 1964, the Illinois Public Aid Code provided that benefits would be extended to a "dependent child," who was defined in part as:

> "a needy child under age 18 who has been deprived, in whole or in part, of the support or care necessary to provide him with a standard of living consistent with decency and health. . . ." [Ill. Rev. Stat. ch. 23, Section 601 (1963)]

Illinois' definition was essentially the same as the Congressional definition of "dependent child" contained in 42 U.S.C. Section 606(a), which included only a needy child "under the age of 18." In 1964, however, Section 606(a)(2) was amended by Congress to include a needy child—

> "(A) Under the age of eighteen or (B) under the age of twenty-one and (as determined in accordance with standards prescribed by the Secretary) a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment." [Pub. L. 88-641, 78 Stat. 185, Sess. 2 (1964)]

Illinois then changed its Public Aid Code to define a "dependent child" in part as:

> "'a needy child under 18, or age 18 or over but under age 20 if he is in regular attendance in high school or in a vocational or technical training school. . . ." [Ill. Rev. Stat. ch. 23, Section 601 (1965)]

It is apparent from comparing the Social Security Act, as it read in 1964, with the Illinois Public Aid Code, that they are substantially identical as far as the educational requirement. If the appellants' argument is accepted by this Court, this means that Illinois ran afoul of the Equal Protection Clause by extending public aid benefits to a class created by Congress, i.e., children over 18 who were attending vocational or technical school. While the appellees realize that Congress cannot authorize the States to violate the Equal Protection Clause [*Shapiro* v. *Thompson*, 394 U.S. 618, 641 (1969)], the fact that two legislative bodies (Congress and the Illinois Legislature) made the same classification should provide a substantial showing of reasonableness.

If Illinois did not run afoul of the Equal Protection Clause by adopting Congress' definition, the only other possibility is that a violation arose in 1965 or shortly thereafter, when Congress expanded the scope of federal participation in AFDC plans by amending 42 U.S.C. Section 606(a)(2) to include children, 18 to 21 years old, who were in college or in a university. The logical extension of this argument is that every time Congress changes its definition of a "dependent child", all States that do not immediately change their definition are in violation of the Equal Protection Clause. Such a conclusion runs contrary to the well accepted principle that a State statute is not invalid merely because it does not go as far as it might have. [*E.g., Seagram & Sons* v. *Hostetter,* 384 U.S. 35, 50 (1966)].

B.

The Equal Protection Clause does not require that Illinois choose between extending AFDC benefits to all needy children between the ages of 18 and 21 or not extending benefits to anyone over age 18, and by extending benefits to needy children between the ages of 18 and 21 who are attending a vocational or technical school, Illinois has acted constitutionally by reasonably attacking as much of the problem as its finances would allow.

Under the federal definition of a "dependent child", which is contained in 42 U.S.C. Section 606(a), federal participation in AFDC programs has been extended to include not only children between the ages of 18 and 21 who are attending vocational or technical schools, but also those children who are attending a college or university. Illinois has not yet extended welfare benefits to children over 18 who are in attendance at a college or university,

and the pertinent issue before this Court is whether Illinois has offended the Equal Protection Clause of the Federal Constitution by its financial inability to grant benefits to the full extent permissible under the Social Security Act. The appellees submit that the question must be answered in the negative.

This Court has repeatedly said that the States have considerable leeway in allocating their AFDC resources [Eg., *King* v. *Smith,* 392 U.S. 309, 318, 20 L. ed 2d 1118, 88 S. Ct. 2128, 2134 (1968)], and a State may legitimately attempt to limit its expenditures for public assistance or public education or any other program as long as it does not accomplish such purpose by drawing invidious distinctions between classes of its citizens. [*Shapiro* v. *Thompson,* 394 U.S. 618, 633 (1969)] In determining whether a classification is invidious, one must keep in mind that the Equal Protection Clause does not require that a State must choose between attacking every aspect of a problem or not attacking the problem at all. It is enough that the State's action is rationably based [*Dandridge* v. *Williams,* 397 U.S. 471, 486, 487 (1970)], and a classification does not violate one's right to equal protection of the laws unless it is palpably arbitrary. [*Snell* v. *Wyman,* 281 F. Supp. 853, 865 (S.D. N.Y. 1968)], *aff'd,* 393 U.S. 323 (1969). A statute is not invalid under the Constitution because it might have gone further than it did [*Roschen* v. *Ward,* 279 U.S., 337, 339 (1929); *Russo* v. *Shapiro,* 309 F. Supp. 385, 394 (D. Conn. 1969)] The question is not whether this Court would act the same way if it were sitting as a legislature, but whether there is a rational basis for the classification which has been made. [See *Dandridge* v. *Williams,* 397 U.S. 471, 487 (1970); *Russo* v. *Shapiro,* 309 F. Supp. 385, 392, 393 (D. Conn. 1969)] One

who attacks the classification has the burden of proving that the statute is unreasonable, and the statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. [*Dandridge* v. *Williams*, 397 U.S. 471, 485 (1970); *McGowan* v. *Maryland*, 366 U.S. 420, 426 (1961)] In determining whether the Illinois Public Aid Code and Regulations violate the Equal Protection Clause, we must consider the facts and circumstances behind the law; the interests which Illinois is protecting, and the interests of those who are disadvantaged by the classification. [*Williams* v. *Rhodes*, 393 U.S. 23, 30 (1968)] With the foregoing principles in mind, let us turn to an analysis of the interests which the State of Illinois is protecting.

By the policy which it is presently carrying out, the State of Illinois is protecting its fiscal integrity, promoting employment, and is guarding against adverse reactions by its working poor. All of these have been recognized as legitimate State concerns [*Dandridge* v. *Williams*, 397 U.S. 471, 486 (1970)], and the Illinois plan is reasonably related to accomplishing all those goals.

Illinois' financial stability is aided by virtue of the fact that AFDC benefits are generally required for shorter periods of time if a child is in vocational or technical school than if the child were in a college or university. It is a matter of common knowledge that vocational and technical schools are generally two years or less, as opposed to the normal four year span in a college or university, which means that the State of Illinois is providing AFDC benefits for a shorter period of time. While such is a matter of common knowledge, the appellees have, for the Court's convenience, listed in an Appendix the

Chicago area vocational and technical schools, as well as the courses given and the length thereof.*

Illinois' Public Aid Code, as it relates to AFDC, also promotes employability, and while self-support might not be a major program emphasis for youths while they are in school, both Congress and HEW have repeatedly stressed their concern that recipients become self-supporting as soon as possible. For example, 42 U.S.C. Section 602(a)(14), requires every State to set up a program "in order to assist such child, relative and individual to attain or retain capability for self support. . . ." Similarly, the next section, Section 602(a)(15), requires all States to adopt a program with the objective of assuring, to the maximum extent possible, that recipients "will enter the labor force and accept employment so that they will become self sufficient." Section 602(a)(19) requires that the States adopt a provision for AFDC recipients over age sixteen to be referred to work incentive programs if they are not in school. Congress has also provided in Section 602(a)(7)(A) that income earned by children over eighteen and under twenty-one and in school should be disregarded in determining "need." While the appellants see this Section as an incentive for children to remain in school, the appellees interpret the Section as a Congressional incentive for chil-

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* The list was compiled from catalogues sent in response to appellees' calls to Chicago area vocational and technical schools; the list is contained in Appendix A.

The House Republican Task Force on Education and Training reported that "the course length in proprietary schools is very short, generally falling between four months to a year. The same course in a community college would take two years and mean a loss of possible earnings during the additional period." Vol. 116, Congressional Record, Aug. 17, 1970.

dren in school to work. All in all, a review of the Social Security Act shows Congress' concern that recipients should become self sufficient and self employable. The primary purpose of welfare legislation is to provide temporary assistance and to make recipients employable and self sufficient as soon as possible so that they may develop pride and feel that they are an important part of our society.

The foregoing conclusion is reinforced by the utterances of HEW, which is entrusted with the primary responsibility of interpreting the Social Security Act; its regulations speak of the objective of this legislation as being the "increasing [of] a young person's employability . . .", [Handbook of Public Assistance Administration, "Greensheets", G3220, Brief for Appellant Townsend, p. 11a] In Section 4210, which is entitled "Purpose of Legislation", HEW states that the first broad purpose of the Social Security Act is to "(1) clarify and emphasize the national interest and responsibility in the further development of services with emphasis on strengthening family life, social rehabilitation, *prevention of dependence, self support,* and self care." (Brief for Appellant Townsend, p. 16a) (Emphasis added)

The Illinois Legislature has also taken a position consistent with that of Congress and HEW. Section 1.1 of the Illinois Public Aid Code provides that the Department of Public Aid shall establish such standards "as will encourage and assist applicants and recipients . . . to develop their self reliance and realize their capabilities for self care, *self support,* and responsible citizenship. [Ill. Rev. Stat. ch. 23, § 1-1 (1969)] (Emphasis added)

To summarize, Congress, HEW and Illinois have always expressed the view that self support was a primary con-

sideration in the public assistance programs. The course of action which Illinois has taken works towards achieving that goal. By extending benefits to those children over eighteen who are attending a vocational or technical school, Illinois emphasizes specific employment objectives which are attainable within a period of approximately two years or less. The lower federal courts have recognized that a State may effectuate the goal of self support and independence by structuring its AFDC program to maximize incentives as an alternative to welfare. [*Henry* v. *Betit*, 323 F. Supp. 418, 424 (D. Alaska 1971)]

Aside from the fact that the Illinois policy protects the public fisc and promotes employability, it can also be assumed that the Illinois Legislature has in mind a possible effect on the working poor if benefits are extended as far as allowable under the Federal law. This again is a legitimate State concern. [*Cf. Dandridge* v. *Williams*, 397 U.S. 471, 486 (1970)]. While education is important, it does not follow that one should be entitled to support while attending college, or that one should be entitled to attend college without personal sacrifice. The record shows that Omega Minor, like her mother before her,* has not

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* The "tragic cycle of poverty" that the appellants make reference to is not necessarily broken by education alone, without some training as to the importance of work habits. The National Advisory Council of Vocational Education, a body of 21 experts appointed by the President, stressed this point by recommending that part time employment should be emphasized. In making this recommendation, the Council stated:

> "Many children learn these attitudes [which add up to employability] at home. A father who is regularly employed and displays a responsible attitude toward his job is likely to teach employability to his children

worked a day in her life (App. 155, 175, 176, 186), and this is a luxury which is shared by very few of those who wish to attend a college or university. As was noted by one of our lower federal courts, "AFDC was not designed to provide a guaranteed annual income for those who are capable of gainful employment." [*Henry* v. *Betit*, 323 F. Supp. 418, 425 (D. Alaska 1971)] While appellant will undoubtedly argue that Miss Omega's failure to work was because of concern for her mother,* the State can still be generally concerned about the effect on children of the working poor, who are forced to work part time in order to attend college, upon seeing AFDC being granted to someone who does not wish to work or to someone else who feels that basketball is more important than helping put himself through school.

Lastly, some consideration should be given the fact that a recipient who attends a technical or vocational school can be reasonably assured of becoming a draftsman, a

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without much help from the school. A child who is brought up in a family in which there is no employed adult, or in which observed employment is sporadic and casual, is not likely to learn at home how to hold a job. For such a child, employability is as important a part of the school curriculum as reading.

A good way to teach employability where it is not an integral part of everyday life, is through employment."

Third Report of the National Advisory Council on Vocational Education, July 10, 1970, pp. 4, 5.

* Mrs. Townsend has been provided with housekeepers on three separate occasions, but she has never been happy with any of them. (App. 163) These were paid by the Cook County Department of Public Aid.

dental assistant, an auto mechanic, a court reporter, a computer operator, a clerk-typist, an electronics technician, a medical assistant, or a key-punch operator while the State of Illinois is still providing AFDC benefits. On the other hand, a student will very seldom complete the required four years of college prior to the time that he reaches age 21. Various studies which have dealt with the disgruntled members of our society have concluded that the attitude of such a person is often a result of his frustration, and who can say that it is more frustrating to a student to be denied AFDC benefits upon leaving high school than to be granted AFDC benefits which are terminated when the recipient still has a year or two to go to attain his goal. It would seem to be in the State's interest that students complete the goal they have undertaken.

Summarizing, the classification originally established by Congress and later adopted by Illinois in its Public Aid Code protects the public fisc, encourages employability and self support, thereby promoting self pride, and seeks to minimize friction between AFDC recipients and the children of the working poor who attend college. All of these are legitimate State goals.

It is contended, however, that the protection of public funds cannot be achieved by an invidious discrimination, and that the classification contained in the Illinois Public Aid Code is invidious because the profession of an elementary school teacher is better than the professions resulting from vocational and technical training. Before that point is considered, it should be noted that the classification in the Public Aid Code of Illinois does not deny anyone the fundamental right to an education. The fact that Omega Minor will graduate in June of 1972 shows that she has not been deprived of her right to an education,

and the failure of Illinois to provide AFDC benefits must be considered in conjunction with the wide range of benefits provided by Illinois for the financially needy to help them obtain a college education. This will be considered at length shortly.

But returning to Appellant's argument, it is true generally that a doctorate is better than a masters degree, a masters degree better than a college degree, and a college degree better than a degree from a vocational or technical school.* But that is not the question. Poverty is un-

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* There is, however, evidence to the contrary. The Center for Vocational and Technical Education, located at Ohio State University, has published a pamphlet entitled *Review and Synthesis of Research on The Placement and Follow-up of Vocational Education Students* (Research Series No. 49, VT 010175) One of the studies reviewed was by Richard W. Whinfield, who compared in 1969 the occupational status and earnings of 1961 and 1964 graduates of two year technical institute programs with those of graduates of two-year University academic programs in Kenosha and Wausau, Wisconsin. His findings indicate that the level of occupation and earnings may be associated more with completion of a program than with the type of program completed. The technical program students averaged somewhat lower in usual measures of scholastic aptitude and achievement, but technical program graduates were achieving at least equally in the world of work.

Another study reviewed was by Kenneth J. Little, who conducted a 1967 state-wide follow-up study of the occupations of the 1957 male secondary school graduates of Wisconsin. The graduates were separated into three groups: (a) those who attended college; (b) those who attended a post-secondary vocational or technical school; (c) those who attended no post-secondary school. The data showed that college students who had ranked in the top tenth of their class pulled away from other college stu-

fortunate, but it is not limited to only those who have been deprived of a parent. The children of those working for minimum wages have similar problems, and while one always dreams of the utopia of helping all impoverished get a higher education, the realities of fisc in welfare programs require that we settle for helping the most needy of the total needy. In establishing the welfare programs, Congress realized that the States would not always have sufficient monies to participate in the full extent of the federal program, so it provided that the various programs should be implemented "as far as practicable under conditions in every State." [42 U.S.C. Section 601] Illinois, like many other states, finds itself in a financial crisis. The welfare appropriations for the fiscal year 1970 jumped 22% over the previous year. Chicago Tribune, Aug. 11, 1969, Section 1, p. 5 Public Aid officials have been publicly quoted as saying that if the current public aid deficit is not met in some way, the only alternative will be to cut basic grants. (Chicago Sun-Times, Sunday, Oct. 10, 1971, Viewpoint, an Article by Patricia Koval entitled "Can Ogilvie End Welfare Crisis.") Governor Ogilvie announced on October 5 of this year that the State had to meet a deficit of 107 million in order to fund the welfare programs for this year, and that welfare money will run out completely in May 1972 if the deficit is not met in some way.

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dents in reaching high prestige occupations. Students who attended college but did not graduate, however, attained occupations of the same type and level much like those attained by the middle half of the other two groups.

Other independent studies which are mentioned in the footnote on page 32 reached conclusions that vocational and technical graduates often fared better than academic graduates.

The question really is, then, whether Illinois has made an unreasonable determination when it decided that its limited funds were best utilized for those who were attending high school, vocational or technical school. This decision is not unreasonable for a variety of reasons.

First of all, the classification is reasonable because there are significant differences between those who are presently receiving AFDC benefits under the Public Aid Code and those in the class represented by the plaintiffs. There can be no doubt that a substantial difference exists between the plaintiffs, who have high school degrees, and a recipient who is attending high school, so the difference there clearly is reasonable. Furthermore, those attending vocational or technical schools are generally not required to have a high school degree as an absolute necessity (See Appendix A), while a high school degree is required by colleges and universities. It is therefore very reasonable to assume that the class of children to whom Illinois is granting AFDC benefits is a significantly different group than the class represented by the plaintiffs. Although there may be some overlap between the two classes, the Constitution does not require that classifications be made with mathematical nicety. [*Dandridge* v. *Williams*, 397 U.S. 471, 485 (1970)] As this Court noted, "[t]he problems of government are practical ones and may justify, if they do not require, rough accommodations—illogical as it may be, and unscientific." *Metropolis Theater Company* v. *City of Chicago*, 228 U.S. 61, 69-70 (1913)

Secondly, it is not arbitrary to grant AFDC benefits to those enrolled in a technical or vocational school, as opposed to those attending a college or university, because the latter group has a wide range of benefits which are not fully available to the former group. For example,

under the Illinois Public Aid Code there are twelve college scholarships provided for high school students receiving AFDC benefits. [Ill. Rev. Stat. ch. 23, Section 4-3 (1969)] Under Section 4-3 the Illinois Department of Public Aid may, not only in the academic year but also during summer school, make grants to cover school expenses and costs of maintenance which are not covered by the scholarship. This scholarship remains in force for four consecutive years of study, even though the student reaches the age of 21 and would therefore be ineligible for a regular AFDC grant. Thus, a needy child who is attending a college can keep that scholarship and the supplemental grants beyond age 21, while those attending vocational or technical school are eligible for AFDC only to age 21. But said scholarships are only a part of the benefits available to those attending a college or university but not available to those attending a technical or vocational school.

In 1957 Illinois passed legislation authorizing the Illinois State Scholarship Commission, a governor-appointed body of seven persons. This commission was created because of Illinois' dedication to the principles and purposes which are quoted in Appellant Townsend's Brief. (pp. 23, 24) Illinois' dedication to those principles, however, should be considered as part of the entire picture. Illinois has made available to financially deprived students, through the Illinois State Scholarship Commission, non-repayable competitive scholarships, non-competitive grants based on need alone, and also educational loans guaranteed by the State of Illinois. [Ill. Rev. Stat. ch. 122, Section 30-15 to 30-15.13 (1969)] Such scholarships and outright grants are available, however, to only those who have successfully completed high school and are enrolled in a public or private, not for profit, college having at least a two

year program leading to a degree. [Ill. Rev. Stat. ch. 122, Sections 30-15.2, 30-15.5, 30-15.7a (1969)] Between 1958 and 1970 the Illinois State Scholarship Commission has made 136,250 awards in a total dollar amount of $79,350,000. In the scholastic year 1969-1970, the commission paid out $15,825,000 in outright grants and $10,375,000 in scholarships. These scholarships, grants and guaranteed loans are especially designed for the financially needy [Illinois State Scholarship Commision Report, May, 1970, p. 1], and they are not to be confused with the wide range of scholarships awarded specifically to those who indicate their intention to enter the teaching profession. [Ill. Rev. Stat. ch. 122, §§ 30-1, 30-2 (1969)]

In addition to the scholarships available under the Public Aid Code, and in addition to the grants, scholarship and guaranteed loans previously noted, there is also a full range of federal and other benefits available to college and university students. For example, although financial need is not taken into account in determining the winners of the National Merit Scholarship Awards, financial need is used as a criteria in awarding the stipend to the winners. There is also a separate scholarship competition for Negro students which is called the National Achievement Scholarship Program for Outstanding Negro Students. This was created in 1964 by the Ford Foundation, and there are one-time non-renewable $1000 scholarships and also four year achievement scholarships with a stipend based on individual needs.

The same disparity which exists under state grants and private grants, as to the benefits available to one attending a college or university in opposition to one attending a technical or vocational school, is true under federal law. For example, the federal government invests

$14.00 in the nation's universities for every $1.00 it invests in the nation's vocational educational programs. [1969 Annual Report of the National Advisory Council of Vocational Education, quoted by Representative John Dellenbach, Vol. 116 of the Congressional Record, Wednesday, Aug. 12, 1970] The fact that these additional benefits are available to a needy child attending a college or university would of course not cure a violation of the Equal Protection Clause, but it does demonstrate that Illinois has made a reasonable choice in designating those attending vocational and technical schools as being more in need of help than those attending colleges or universities, and this of course goes to the question of whether or not there is a violation of Equal Protection in the first place.

Despite appellants' protestations to the contrary, when they graduated from high school and enrolled in free junior colleges, instead of in "X" vocational schools, they did become less needy than those that chose the vocational schools. They had reached an age where they were old enough to work, they were now entitled to apply for and receive non-competitive grants and guaranteed loans, and they were not paying tuition as are generally those who are attending a vocational or technical school.* This type of decision, as to who is needy, has always been a matter properly left to the States. [*King* v. *Smith,* 392 U.S. 309, 318, fn. 14 (1968)] The State is not obligated by the Fed-

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*"Tuition charges [in proprietary vocational schools] range anywhere from $100 to $4500 per course; the average tuition is approximately $850 to $900 annually." Report on Proprietary Vocational Schools by the House Republican Task Force on Education and Training, Vol. 116, Congressional Record, Aug. 12, 1970.

eral Constitution to remedy every social malady [See *Williams* v. *Page,* 309 F. Supp. 814, 816 (N.D. Ill. 1970)], and the State of Illinois is not responsible for the fact that neither of the plaintiffs ever bothered to apply for the scholarships and grants which they might have obtained. (App. 114, 173-175)

As was noted earlier, Illinois has limited funds available at the present. It has made a determination that its limited funds can best be utilized by granting them, which are minimum at best, to an 18 year old who probably does not have a high school degree so that the recipient will be able to obtain employment at age 18 or 19 or possibly 20 as a clerk, draftsman, dental assistant, electronics technician, programmer, auto mechanic, court reporter, computer technician, clerk-typist, key-punch operator or secretary. It cannot be said that spending funds for such a purpose is less worthy than providing welfare-benefits for Jerome Alexander, who has a high school diploma, so that he can more easily spend two years attending school and working to attain his goal of being a pro-basketball player or coach. That is not to say that a computer technician, secretary or auto mechanic is a more worthy profession than a basketball coach or a school teacher, but the point simply is that under Illinois' program, at the end of a year or possibly two years, a recipient who may be a high school dropout finds himself in an employable situation where he can become self-sufficient, develop pride and a sense of identity. As the Court noted in *McClellan* v. *Shapiro,*

> "While education plays a part in preparing young people for a place in the work of our society, it is not irrational for the State to refuse to maintain the next generation of workers in this state of dependence beyond the age of 19. Children do grow up and

become self supporting." [315 F. Supp. 484, 493 (D. Conn. 1970)]

It can hardly be said that Illinois' determination — that its interests are better served by paying AFDC benefits for a year or two while a recipient becomes an electronics technician, architectural engineering technician, computer technician or the like, as opposed to paying AFDC benefits for three years in order to enable a recipient to finish two or three years towards his four-year goal of becoming a pro-basketball player — has been an arbitrary one. Nor can it be said to be a wiser policy to cut the AFDC benefits, which are minimum now, being given to non-high school graduates attending vocational or technical schools so that they might be shared by Miss Minor, who was her high school valedictorian and who might have, but never bothered to, apply for the scholarships and supplemental grants available to a college or university student.

Thus far the appellees have directed their arguments towards proving that there are identifiable differences between the two groups which have been created, and that Illinois has acted rationally in choosing to aid one group rather than the other. Appellees also submit that Illinois' course of action does not place the poor at a great disadvantage. Appellants' arguments to the contrary are based on the principle that a college education is *per se* better than vocational and technical education* and upon certain

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* Appellants Townsend and Minor quote Special Labor Force Report No. 122, *Education of Adult Workers: Projections to* 1985 for the thought that a formal education is necessary for a job applicant to get equal consideration for a position. (Brief, pp. 18, 19, fn. 10) However, they

misleading graphs and statistics. The graph shown by the appellants Alexander (Brief, p. 30), which purports to show that the classification in the Illinois Public Aid Code is channelling recipients into high unemployment areas, is fatally deficient in several respects.

First of all, while the Special Labor Report does not define its terms, it is hardly likely that a clerk, draftsman, dental assistant, electronics technician, programmer, auto mechanic, court reporter, computer operator, clerk-typist, body and fender repairman or a secretary would be classified as a laborer. Secondly, the statistics were compiled as of 1968, and they completely ignore that in the last three years there has been an ever-increasing demand for more trained and skilled workers. The situation which exists

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should have continued a few more lines to the conclusion reached:

> "Excessive reliance upon formal education as a requisite for acceptance into the world of work is not only inherently unjust to the millions of less educated workers and potential workers who possess the need, desire, and basic competence to perform useful work; *it is also unrealistic, given the nature of many of the jobs which need to be filled.* The real needs of employees can best be met by a selective process which ensures an optimal matching of jobs and workers." (pp. 49, 51) (Emphasis added)

The Special Labor Force Report was making the same point as was U.S. Representative John Dellenback, Chairman of the House Republican Task Force on Education and Training, when he pointed out that (1) in the 1980's, fewer than 20% of the job opportunities will require a four year collegs degree, and (2) the "most pressing manpower needs in the 1970's will come in the subbaccalaureate skilled, technical, clerical, and paraprofessional occupations." (Vol. 116, Congressional Record, August 12, 1970)

now was noted by Representative John Dellenbach of Oregon, the Chairman of the House Republican Task Force on Education and Training:

> "The Labor Department, forecasting the employment situation for the 70's, estimated that the demand for technical workers will increase by about forty-five percent — twice as fast as the demand for all workers; that the demand for white collar workers will increase by about fifty percent — technological advances in computers will not solve clerical shortages, and the shortages of engineering graduates will require continued upgrading of skilled technicians. While we will be short on the trained skilled workers we need, we will have a rough overall balance between the supply and demand for college educated personnel. Clearly, therefore, our most pressing manpower needs in the 1970's will come in the subbaccalaureate skilled, technical, clerical and paraprofessional occupations." (Vol. 116, Congressional Record, Wednesday, Aug. 2, 1970)

This shift in manpower needs over the past few years is such common knowledge that it was recently the subject of a newspaper article in the Wall Street Journal. The article, which is set forth in Appendix B for the Court's convenience, notes that many students are dropping out of college and enrolling in vocational schools in order to improve their prospects for obtaining a job.

In striking contrast to the increasing demand for skilled craftsmen and technicians is the growing surplus of teachers, the profession which Miss Minor hopes to enter. This surplus is strikingly illustrated in a graph contained in a recent article by William S. Grayfield, Assistant Director of the National Education Association Research Division.*

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*The article is reproduced in total in Appendix C to this Brief.

There is one final point that should be made with regard to appellants Alexander's use of Chart I on page 31 of their Brief. The argument based on that Chart is completely erroneous because the Table has been inadvertently misread, and the statistics actually show that *there is absolutely no job advantage, as far as unemployment rates, unless four years of college are completed.* In order to see the Appellants' mistake, reference must be made to the Table which precedes the Table used. Table K is on the same page and deals with the same time (March, 1970), but the unemployment rates are classified by age and sex rather than by age and color. This Table shows:

PERCENT OF LABOR FORCE UNEMPLOYED

Years of school completed and sex	Total, 18 yrs. old and over
Both Sexes	
Total	4.2
High School: 4 yrs.	3.9
College: 1 to 3 yrs.	3.9
College: 4 yrs. or more	1.5

U.S. Bureau of Labor Statistics, Special Labor Force Report 125, "Educational Attainment of Workers: March 1969, 1970" Table K (abridged)

From a comparison of the two Tables, appellants' mistake is obvious. What appellants classify as "College: 1 year or more" includes not only those with 1 to 3 years of college, but those with college training that may include a doctorate. The fact of the matter is that high school graduates have exactly the same unemployment rate as

those with from 1 to 3 years of college. Furthermore, those who have vocational training in addition to a high school degree may very well have lower unemployment rates than the worker with some college training. There is some evidence to support this conclusion.*

In conclusion, the appellees do not say that the Illinois classification is the most wise, or that it best fulfills the relevant social and economic objectives that Illinois might ideally espouse, or that a more just humane system could not be devised. However, conflicting claims of intelligence can be raised as to almost every measure, certainly including the classification now before this Court. But such conflicting claims are not sufficient to void a State statute. The State is required only to classify in a rational man-

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*The Center for Vocational and Technical Education (Ohio State University), in its pamphlet Research Series No. 49, reviews a project by Max Eninger entitled *The Process and Product of Trade and Industry High School Level Vocational Education in the United States.* Among the findings reached were:

1) Starting salaries obtained by trade and industrial graduates depended on local labor markets, but were not greatly different from starting salaries of a comparison group of graduates who had academic majors.

2) Two years after graduation the graduates had experienced a 35% increase in mean hourly rate and were being paid substantially higher rates than the academic graduates with whom they were compared.

3) The graduates in related occupations reported a higher degree of job satisfaction than the academic graduates.

4) Graduates placed in jobs related to their training surpassed the academic majors on all measures of employment security tested.

ner, and this it has done. What this Court said in *Dandridge* v. *Williams* is directly applicable:

> "the intractable economic, social and even philosophical problems presented by public welfare assistance programs are not the business of this Court. The Constitution may impose certain procedural safeguards upon systems of welfare administration. [Citation omitted] But the Constitution does not empower this Court to second-guess state officials charged with the difficult responsibility of allocating limited public welfare funds among the myriad of potential recipients." [397 U.S. 487]

II.

THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT IS NOT OFFENDED BY VIRTUE OF THE FACT THAT THE ILLINOIS LEGISLATURE DID NOT DEFINE THE TERMINOLOGY "VOCATIONAL OR TECHNICAL TRAINING SCHOOL" WHICH IS CONTAINED IN THE ILLINOIS PUBLIC AID CODE.

The Illinois Legislature's use of the terminology "vocational or technical training school", to designate one of the requirements for AFDC benefits, is neither vague nor arbitrary so as to violate the Due Process Clause of the Fourteenth Amendment. If any caseworker is unsure as to what constitutes a "vocational or technical training school", he need only check the Illinois statutes which define such schools. [Smith Hurd Ill. Annotated Stat. ch. 144, Section 136 (1971 Supplement)] If the applicant for aid feels that the caseworker is mistaken, the applicant may appeal to the Illinois Department of Public Aid. Upon appeal the applicant is entitled to appear in person and be represented by counsel. [Ill. Rev. Stat. ch. 23. Sec-

tions 11-8, 11-8.1 (1969)] In case of an adverse decision, the applicant then has the right to judicial review. [Section 11-8.7] Thus there is no violation of federal due process. [See *Snell* v. *Wyman*, 281 F. Supp. 853, 864, 865 (S.D. N.Y. 1968), *aff'd*, 393 U.S. 323 (1969)] Apparently neither of the appellants contended in the proceedings below that they were entitled to AFDC benefits because they were attending a "vocational school."

Nor is the classification so arbitrary as to constitute a violation of the Due Process Clause of the Fourteenth Amendment. The statutory sections relied upon by the appellants Townsend and Minor to show arbitrariness are those which authorize school boards to enter into agreements with junior colleges for the purpose of providing vocational training of students in the 11th and 12th grades, and these sections expressly provide that participation in the program "is accorded the same credit towards a high school diploma as time spent in other courses." [Ill. Rev. Stat. ch. 122, Section 10-22.20a (1969)] Children attending such training would then come within the Illinois definition of a "dependent child", in that they are the same as in regular attendance in a high school. These statutory sections mentioned by the appellants again point up the fact that the Illinois Legislature meant to, and did, deal with an entirely different class of individuals than those represented by the appellants, who had high school diplomas and who were able to get into a college or university. The classification made by the Illinois Legislature is not so arbitrary as to violate the Due Process Clause. [See *Snell* v. *Wyman*, 281 F. Supp. 853, 861-863 (S.D. N.Y. 1968), *aff'd*, 393 U.S. 323 (1969); *Shapiro* v. *Thompson*, 394 U.S. 618, 662 (1969) (Dissenting opinion of Justice Harlan)]

III.

BOTH CONGRESS AND THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, THE ADMINISTRATIVE BODY WHICH HAS BEEN ENTRUSTED WITH THE DUTY OF INTERPRETING THE SOCIAL SECURITY ACT, HAVE CONSISTENTLY INDICATED THAT SECTION 606(a)(2) OF THE SOCIAL SECURITY ACT (42 U.S.C.A.) — WHICH DEFINES A "DEPENDENT CHILD" FOR PURPOSES OF FEDERAL PARTICIPATION AS A NEEDY CHILD REGULARLY ATTENDING A SCHOOL, COLLEGE OR UNIVERSITY OR REGULARLY ATTENDING A COURSE OF VOCATIONAL OR TECHNICAL TRAINING DESIGNED TO FIT HIM FOR GAINFUL EMPLOYMENT — IS OPTIONAL AND DISCRETIONARY WITH THE STATES, AND THE SUPREMACY CLAUSE DOES NOT REQUIRE ILLINOIS AND THE OTHER STATES HAVING LAWS SIMILAR TO ILLINOIS TO EXTEND BENEFITS TO THE MAXIMUM EXTENT ALLOWABLE UNDER THE SOCIAL SECURITY LAW.

A.

Both Congress and the Department of Health, Education and Welfare, which has the responsibility under the law of interpreting the Social Security Act, have consistently recognized that 42 U.S.C. Section 606(a) is merely discretionary and not mandatory.

The legislative history of 42 U.S.C. Section 606(a) is set forth in a scholarly manner in the Brief for the United States as amicus curiae (pages 12-21), and the Appellees will not burden this Court by repeating that Argument. Nonetheless, the Appellees would like to briefly review some of the quotes contained in the Appellants' own Briefs

to show that Congress always intended for the coverage contained in Section 606(a) to be discretionary, not mandatory.

For example, in 1940 Congress raised the age limit for federal grants from 16 to 18 if the State agency found that the child was regularly attending school. The House report which accompanied that change stated:

> "It is estimated that about 100,000 additional children may obtain the aid by virtue of this change, *provided all States amend their laws accordingly.*" [H. Rep. 728, 76 Congress, First Sess. 28, 29 (1939)] (Emphasis added)

That same report also discussed the possible costs:

> "Additional costs to the Federal Government of these two amendments is difficult to estimate due to the fact that *the amendments are effective only at such time and to the extent that the States match the Federal funds.*" (Emphasis added)

Then in 1964 Congress again amended the Social Security Act so as to extend Federal participation in AFDC programs to those instances where a child had attained 18 but was still attending high school or vocational school. In the Senate Report preceding that amendment, the Committee commented that "the extension of the program in this manner would be optional with the states". [Sen. Rpt. No. 1517, 88th Congress, 2nd Sess. 2 (1964)]

Again in 1965 the definition of a "dependent child" was changed by Congress. The Committee report which accompanied the amendment stated:

> "Under existing law States, *at their option, may* continue payments to needy children up to age 21 in the aid to families with dependent children program, providing they are 'regularly attending a high school

> in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.' The Committee added an amendment extending this provision so as to include needy children under 21 who are regularly 'attending a school, college or university.' *Federal sharing for this purpose would thus be available to States who implement such a program for payments to children regularly attending a college, or university,* as well as those attending high school or a vocational school. . . .'' [Sen. Rep. 404, 89th Congress, First Sess. 147 (1965)] (Emphasis added)

Then in Amendment 511, the language was changed from the then existing requirement — that the child be "(as determined in accordance with standards prescribed by the Secretary of Health, Education and Welfare) a student" — to a requirement emphasizing the latitude given the States — that the child be "(as determined *by the State* in accordance with standards prescribed by the Secretary of Health, Education and Welfare) a student regularly attending a school, etc." [Conference Rep. No. 682, 89th Congress, First Sess. 69-70 (1965)] (Emphasis added)

The gist of the amendments is obvious. On every occasion when Section 606(a) has been amended, Congress has made it very clear that it was optional with the States to either extend the new benefits or not extend the new benefits. If Illinois extended benefits to children beyond 18, it would be in accordance with standards described by Illinois and approved by HEW. Illinois extended benefits beyond age 18 in accordance with its standards, and its standards included the requirement that a child be attending a vocational or technical training school. HEW

has approved that plan and others like it.* What has occurred in the case at bar is entirely consistent with what Congress has stated to be the purpose of the AFDC provisions, which are intended to enable "each State to furnish financial assistance and rehabilitation and other services, *as far as practicable under the conditions in each State,* to needy dependent children and the parents or relatives with whom they are living. . . ." (42 U.S.C. Section 601) This interpretation is consistent with what Congress has said from the very beginning, that the AFDC program "does not represent an attempt to dictate to the States how they shall care for families of this character, but is recognition of the fact that many States need aid to carry out the policy which they have already adopted." [Sen. Rep. 628, 74th Congress, First Sess. 16-19 (1935)]

If any clarification is needed of the Congressional intent, that clarification is provided by the interpretation given the Social Security Act by HEW, which is the administrative body chosen to administer the Act. HEW's interpretation of the Social Security Act is provided in part G-3220 of the HEW Handbook:

> "The objective of the *optional* extension of the AFDC age limit to age 21 is to make it possible for States to claim Federal financial participation in the costs of the assistance given in behalf of individuals under that age. . . ." [Handbook of Public Assistance Administration, "Greensheets", Supplemental pages for the Handbook, part IV]

Furthermore, HEW's position, that States have discretion in determining how far their AFDC program is to be extended, has been expressly set forth by regulation:

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* This is in marked contrast to the situation which was presented to the Court in *King* v. *Smith,* 392 U.S. 309 (1968)where HEW was negotiating with Alabama at the time that suit was brought.

> "States have substantial latitude and corresponding responsibility for determining the coverage, nature and scope of their public assistance programs. Although the public assistance titles define the coverage in which the Federal Government will participate financially, a State may provide coverage on a broader or more limited basis. However, it may not impose any eligibility condition that is prohibited under the Social Security Act." [45 C.F.R. Section 233.10(a)(1)(i); Federal Register, Vol. 36, No. 40 (Feb. 27, 1971, p. 3866)]

This regulation is consistent with HEW's interpretation of the purposes of the Social Security Act, one of which purposes is to "encourage and enable State agencies to develop and expand social services in their programs, *recognizing that primary responsibility rests with the State agencies to determine the purposes and scope of their assistance programs within the framework thus set forth in the Federal Act.*" (Handbook of Public Assistance Administration, "Greensheets", Supplemental pages for the Handbook, G4210) Since HEW has been entrusted with the administration of the Act, its interpretation should be given great deference. [*Lewis* v. *Martin,* 397 U.S. 552, 559 (1970); *Rosado* v. *Wyman,* 397 U.S. 397, 415 (1970). *Cf. Dandridge* v. *Williams,* 397 U.S. 471, 481 (1970)] HEW's interpretation has been consistent, and Congress has continued to make appropriations for the various programs approved by HEW even though Illinois and many other States do not have a definition of "dependent child" as broad as the Federal definition. We have in the case at bar what a lower federal court has referred to as "the apparent acquiescence of Congress (including steady appropriations) over the years in state arrangements which are so common that they must be deemed to be known at

least to the responsible and interested Committees of the Congress." [*Snell* v. *Wyman,* 281 F. Supp. 853, 868 (S.D. N.Y. 1968)]

B.

The classification originally established by Congress in the Social Security Act and incorporated by Illinois into its Public Aid Code, which provides that AFDC benefits will be extended to a needy child over age 18 and under 21 if that child is in a high school, technical or vocational training school, is not arbitrary.

All the appellants' objections to the classification originally created by Congress and now adopted by Illinois are predicated on the premise that vocational and technical training leads to a grossly inferior education for AFDC recipients. The attitude that a vocational or technical education is somehow inferior was referred to last year by Representative John Dellenbach, Chairman of the House Republican Task Force on Education and Training:

> "At the very heart of our problem is a natural attitude that says that vocational education is designed for somebody else's children. . . . We have promoted the idea that the only good education is an education capped by four years of college. This idea, transmitted by our values, our aspirations and our silent support, is snobbish, undemocratic and a revelation of why schools fail so many students. The attitude infects Federal Government which invests $14 in the nation's universities for every $1 it invests in the nation's vocational-education programs. . . . The attitude must change. The number of jobs which the unskilled can fill is declining rapidly. The number requiring a liberal-arts college education, while growing, is increasing far less rapidly than the number demanding a technical skill. In the 1980's, it will still be true that fewer than

> twenty percent of our job opportunities will require a four year college degree." [Quoting from the 1969 Annual Report of the National Advisory Council of Vocational Education, Vol. 116, Congressional Record, August 12, 1970]

Such an attitude overlooks the fact that vocational schools have certain beneficial characteristics. Because technical and vocational schools emphasize employment, these schools maintain close contact with industry so that they can revise their curriculum in response to technological improvements and changes in labor market demands. Since it is not necessary to get approval from school boards or administrative bureaucracies, even major curriculum changes can be instituted in very short periods of time.

But the point of this is not that a clerk, draftsman, denal assistant, electronics technician, auto mechanic, court reporter, computer operator, T.V.-Radio Repairmen, clerk-typist, body and fender repairman or a secretary has a better profession than a teacher in the elementary grades. The point simply is twofold: first, that there are substantial differences between the two classes, and second, that the poor are not being disadvantaged by the Illinois Public Aid Code, which must be considered not in isolation, but in the context of the legislative scheme granting many more benefits to the needy college student than the needy vocational student.

As long as a needy child is in high school, he is entitled to AFDC benefits. In light of the various studies showing the importance of a high school degree, the appellees do not believe that the appellants are seriously questioning this particular classification. Once a child reaches age eighteen he then has a choice to make. If he is a dropout and is no longer interested in conventional schooling, he may

still enroll in a technical or vocational school. In most cases he can do so even though he does not have a high school diploma. The chances are that he will have to pay tuition, which is substantially greater than the minimum charges required in order to attend a junior college. If he chooses to attend a technical or vocational school, he then is entitled to AFDC benefits under the Illinois Public Aid Code.

On the other hand, if the student has a high school degree and, like Omega Minor, aspires to be a teacher in spite of the fact that there is a gross surplus of teachers for the elementary grades, he can then choose to attend a college or university. While it is true that he is no longer entitled to receive AFDC benefits under Illinois law, he may apply for the scholarship and grants reserved expressly for AFDC recipients who wish to attend a college or university. [Ill. Rev. Stat. ch. 23, Section 4-3 (1969)] As opposed to the student attending a vocational or technical training school, who is entitled to receive AFDC benefits for three years at most, the student at a college or university is entitled to the scholarship and supplemental grants for four consecutive years of study, notwithstanding the fact that he reaches age 21. Additionally, he has available to him through the Illinois State Scholarship Commission, non-repayable competitive scholarships, non-competitive grants based on need alone and also educational loans guaranteed by the State of Illinois. [See Ill. Rev. Stat. ch. 122, Sections 30-15 to 30-15.13 (1969)]

Summarizing, there are two distinct groups, each of which has benefits available in different ways. A child who is unable to get into a college or university is provided with AFDC benefits for short term periods terminating in employment for the recipient. Those who have high school

degrees and are able to get into a college or university have other benefits which are not available to the former class. All in all, it cannot be said that Illinois has acted irrationally or arbitrarily.

C.

If the Federal definition of a "dependent child" which is contained in Section 606 of the Social Security Act (42 U.S.C. Section 606) is construed to be mandatory, then Illinois and numerous other states will have to amend their plans and either cut their grants or appropriate additional monies to avoid violating the Supremacy Clause.

Under Section 606 of the Social Security Act, the definition of a "dependent child" is broken down into numerous parts. First of all, such a child has to be deprived of parental support. Second, the child has to be living with certain designated relatives. Third, the child has to be of certain age and/or fulfilling certain educational requirements. It is maintained by the Appellants that Section 606 is mandatory upon the States, and that Illinois' failure to broaden Section 4-1.1 of its Public Aid Code to the same scope as Section 606 of the Social Security Act constitutes a violation of the Supremacy Clause of the United States Constitution. If appellants' argument is accepted, every state which does not now define "dependent child" in accordance with the exact terms of Section 606 of the Social Security Act is in violation of the Supremacy Clause.*

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*Appellees' argument is predicated upon HEW's description of the AFDC programs, which description is contained in Public Assistance Report No. 50, 1970 ed., entitled "Characteristics of State Public Assistance Plans

In 1956 Congress expanded the list of relatives with whom a dependent child could be residing (to be eligible for AFDC) to include first cousins, nephews, or nieces of the dependent child. The Illinois statute, however, does not expressly allow AFDC benefits to be extended to needy children who are residing with first cousins, nephews or nieces of the dependent child. [Ill. Rev. Stat. ch. 23, Section 4-1.2 (1969)] Several other states, notably Georgia, Indiana and Iowa, have a similar problem in that the list of relatives in their statutes is not as broad as Section 606 of the Federal Social Security Act. If appellants' argument is accepted, all are in violation of the Supremacy Clause.

A similar problem arises with regard to the age requirement. For example, Section 606(a) provides, without any school requirement or other qualification, that a "dependent child" is a needy child under age 18. If the appellants' arguments are accepted, this means that Arkansas, California, Colorado, the District of Columbia, Georgia, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Virginia, all of which require school attendance of some sort from a child under age 18, are probably in violation of the Supremacy Clause.

Under the Social Security Act." At the time the Brief was being written, law clerks were preparing a similar chart, which is now Appendix E of this Brief, from the actual statutes. When this argument had been prepared and when it had already been delivered to the printer, it became obvious that there were differences between the Appendix and HEW's Report. This argument therefore relies upon the Report.

States such as Connecticut and Minnesota, which limit aid to children below 19, would according to appellants' argument similarly be in violation of the Supremacy Clause, even though such an age limitation short of age 21 has been sustained by the lower federal courts. [*McClellan* v. *Shapiro,* 315 F. Supp. 484 (D. Conn. 1970)]

States such as Alaska, Delaware, Florida, Mississippi, Missouri and Wisconsin must be violating the Supremacy Clause because they cut off AFDC benefits at age 18. [*Contra, Cheley* v. *Burson,* 324 F. Supp. 678 (N.D. Ga. 1971)] And lastly, there are nine other states which, like Illinois, limit AFDC assistance to students attending high school or vocational school; if appellants' arguments are accepted, Alabama, Indiana, Iowa, Montana, Nevada, North Carolina, North Dakota, Vermont and Washington will have to join Illinois in amending their plans and appropriating more money or, perhaps, cutting their grants. In light of Illinois' current financial deficit, a cut in the grants to less than 100% of need is the most likely result.

From the foregoing it is obvious that there are numerous States having statutes defining dependent children in a more restrictive way than is provided for in 42 U.S.C. Section 606. Most of these statutes were, the appellees guess, at one time or another in compliance with the definition contained in Section 606, but Congress has expanded the definition faster than many States could follow. Based on clear language in the Congressional Reports, HEW has consistently indicated that the Federal definition of a dependent child, which is contained in Section 606, merely delimits the range of Federal participation, and accordingly no plans that the appellees are aware of have been disapproved for failure to comply fully with Section 606. The situation has continued for many years, during which

time Congress has continued to appropriate funds. If HEW was incorrect in its interpretation, Congress certainly knows how to correct the situation. In the past Congress has made it mandatory to give medicaid to the needy attending colleges or universities, even though they do not qualify under the AFDC plans. Congress has also clearly required, by inserting the requirement in Section 602 of the Social Security Act, that AFDC benefits be extended to needy children who are in foster homes. 42 U.S.C. Section 602(a)(20) If Congress desires to bring about the result sought by the appellants, it need only pass the Family Assistance Act of 1970 (HR 16311), which would make assistance to individuals under 22 who are in school or college mandatory, both under part D and part E of the Social Security Act. Appellants, however, would have this Court accomplish by judicial fiat what Congress has thus far refused to do. The only substantial sources of support for this request are this Court's decision in *King* v. *Smith,* 392 U.S. 309 (1968), and certain language in the HEW Handbook. Upon examination neither of these two sources of support relied upon by the appellants provide sufficient justification for the result urged.

In *King* v. *Smith,* 392 U.S. 309 (1968), this Court held illegal Alabama's refusal to provide AFDC payments to children who met all the dependency criteria except that they had a "substitute father". While certain broad language in the *King* case supports the appellants' argument, the precise nature of the holding is delimited in this Court's concluding remarks:

> "We hold today only that Congress has made at least this one determination: that destitute children who are legally fatherless cannot be flatly denied federally funded assistance on the transparent fiction that they have a substitute father." (392 U.S. at 334)

The State of Alabama had in effect defined "parent" in a manner which was not only contrary to the natural meaning of the word, but which was also contrary to the spirit of the Social Security Act. But compare what Alabama did in the *King* case with what Illinois has done, which was merely to adopt substantially the same definition originally incorporated by Congress into the Social Security Act. Then in 1965 Congress expanded this definition of a "dependent child" to include a needy child who is "(a) under the age of 18, or (b) under the age of 21 and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college or university, *or* regularly attending a course of vocational or technical training designed to fit him for gainful employment;" [42 U.S.C. Section 606(a)] (Emphasis added) Considering only a limited portion of the definition for the present, note the word "or" — Congress has provided that a dependent child can be either a needy child between 18 and 21 who is attending a college or university *OR* a needy child between 18 and 21 who is regularly attending a course of vocational or technical training designed to fit him for gainful employment. Illinois has not defined a term contrary to its normal meaning and contrary to the purposes of the Social Security Act, but has merely chosen, as have numerous other States, to participate in less than the full federal scheme. There is no clear conflict between the Illinois Public Aid Code and the Social Security Act, nor any palpable infringement upon the policy expressed by the Social Security Act, so as to constitute a violation of the Supremacy Clause. See *Snell* v. *Wyman,* 281 F. Supp. 853, 868 (S.D. N.Y. 1968), *aff'd,* 393 U.S. 323 (1969).

The only other substantial argument which the appellants have is the fact that the HEW Handbook contains language to the effect that the recipient and his parents should choose the type of education which is best for him. This is merely instructive language promulgated by HEW, which has the primary responsibility for interpreting the Social Security Act, and HEW, by its attorney, has informed the Court that this language is merely suggestive and not mandatory. (See Memorandum for the U.S. as Amicus Curia in response to Reply Brief for Appellant Alexander) Certainly HEW should be in the best position to judge what its language means. This ambiguous language in the Handbook, disowned by HEW and unsupported by Congressional remarks, should not provide the basis for an extensive alteration in the basic underlying policies which have been followed for several years. [See *Rosado* v. *Wyman*, 397 U.S. 397, 414, fn. 17 (1970)]

In light of the many States having statutes like Illinois, in light of Congress' continuing appropriations over the past several years, in light of the position taken by the administrative body charged with enforcing the Social Security Act, the Illinois Public Aid Code must be sustained as reasonable. No doubt a reduction of approximately $30.00 per month in welfare payments is a substantial matter to the appellants, but they are still receiving welfare benefits, and most importantly, those more in need are being helped with the limited funds available. This Court should not strike down the plans of Illinois and numerous other States, thereby forcing Illinois to cut basic grants, without a clear mandate from Congress. There has been no such mandate. If Congress wishes to achieve the result urged by the appellants, it can do so simply by passing legislation pending before it. Perhaps the legislation will

pass, perhaps it will not, but if such a result comes about, it should be done by Congress, which has the power to grant further federal funds, not by this Court.

CONCLUSION

For the foregoing reasons, the Appellees ask that the judgment of the lower court be affirmed.

Respectfully submitted,

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APPENDIX A
VOCATIONAL AND TECHNICAL SCHOOLS LOCATED IN THE CHICAGO AREA

ALLIED INSTITUTE OF TECHNOLOGY

(Educational Service of International Telephone & Telegraph Corporation)

Courses Offered	Entrance Requirement	Length of Course
Architectural Engineering Technician	High School or G.E.D. Test	100 weeks
*Electronics Engineering Technician	"	100 weeks
Industrial Tool Engineering Technician	"	100 weeks
*Electronics Technology	"	50 weeks
Engineering Drafting Technician	"	50 weeks
Tool & Die Making	"	50 weeks
Air Condition, Heating & Refrigeration	"	50 weeks
Automotive Mechanics	"	50 weeks
Mechanical Drafting	"	38 weeks
Precision Machine Tool Operation	"	38 weeks

DE VRY INSTITUTE OF TECHNOLOGY

(Bell & Howell School)

Engineering Technician	High School or G.E.D. Test	108 weeks
Engineering Technologist	G.E.D. Test or High School	3 years
Electronics Technician	High School or G.E.D. or Entrance Exam	72 weeks

ELECTRONICS TECHNICAL INSTITUTE

*T.V. Radio & Electronics Technician	No H.S. Degree	16 weeks
Air Conditioning, Refrigeration & Automatic Heating Service Technician	"	16 weeks
*Electronics Computer Service Technician	H.S. degree or G.E.D.	16 weeks
Technology Course	"	50 weeks
Electromechanical Computer Engineering Technician	"	72 weeks

AMERICAN INSTITUTE OF ENGINEERING AND TECHNOLOGY

Scientific Motor Tune-up and Service Technician	Completion of 8th Grade or 16 yrs. of age	24 weeks-days 48 weeks-nights
Basic Scientific Motor Tune-up Course	"	24 weeks-day and night
*Auto Body & Fender Repair Mechanic Course	"	24 weeks-days 48 weeks-nights
Basic Auto Body & Fender Repair Course	"	26 weeks-days and nights
Machinist Course	"	72 weeks-nights 36 weeks-days
Basic Machine Shop Course	"	48 weeks-days and nights
Industrial Welding Course	"	26 weeks-days 52 weeks-nights
Fundamentals Course	"	26 weeks-days and nights

AUTOMOTIVE TECHNICAL INSTITUTE

*Auto Mechanics	Aptitude Test	32 weeks-days 50 weeks-nights
Auto Body Repair and Repainting—	Aptitude Test	20 weeks-days 31 weeks-nights

CORTEZ W. PETERS BUSINESS COLLEGE

Business Administration	High School degree or enter without degree on probation	
Secretarial Studies		
Junior Clerical		9 months
Executive Stenography		18 months
Bookkeeper		54 weeks
*Clerk Typist		9 months
Secretary Science		18 months
Higher Accounting		18 months
Key Punch Operators		18 weeks

TORNROSE, CAMPBELL INSTITUTE OF ENGINEERING TECHNICIANS

*Apprentice Draftsmen	2 years H.S. and pass exam.	26 weeks
* "	"	42 weeks

CHICAGO COLLEGE OF COMMERCE

*Court and Convention Reporting Course	H.S. degree, Entrance Exam or G.E.D. Test	18-24 months-days 24-36 months-nights
Executive Secretarial	"	15-18 months-days 24-36 months-nights
Legal Secretarial Course	"	15-18 months-days 24-36 months-nights
Medical Secretarial Course	"	15-18 months-days 24-36 months-nights
Secretarial Course	"	9-12 months-days 18-24 months-nights
Stenographic Course	"	6- 9 months-days 12-18 months-nights

VICTOR BUSINESS SCHOOLS

Executive Secretarial	H.S. degree or Aptitude Test	71 Credit hours
Stenographer	"	51 Credit hours
*Senior Typist	"	56 Credit hours
*Clerk Typist	"	37 Credit hours
Receptionist	"	36 Credit hours
Junior Accountant	"	78 Credit hours
Accounting Clerk	"	57 Credit hours
*Business Machine Operator	"	32 Credit hours
*Data Preparation Specialist	"	36 Credit hours

CHICAGO INSTITUTE OF TECHNOLOGY

*Medical Technology	H.S. degree or completion of G.E.D. Test	12 months-days 24 months-nights
X-Ray Technology	"	10 months-days 15 months-nights
Combined Medical and X-Ray Technology	"	15 months-days
Dental Technology	"	2 years

GREER TECHNICAL INSTITUTE

A. *Automotive Mechanics	8th grade or Entrance Exam	120 hours
*Body and Fender Repair	8th grade or Entrance Exam	
1. Oxy-Acetylene Welding		60 hours
2. Fundamentals of Automotive Sheet Metal Work		70 hours
3. Body and Fender Repair		70 hours
4. Panel and Replacement Body Finishing		300 hours
B. Diesel Mechanics	8th grade or Entrance Exam	150 hours
C. Diesel Truck Mechanics	"	150 hours
D. Machinist/Tool and Die	"	
1. Primary Machine Shop Practice		432 hours

	2. Shop Mathematics and Technical Drawing		108 hours
	3. Tool and Die Theory and Construction		432 hours
	4. Shop Mathematics and Technical Drawing		108 hours
E.	Refrigeration and Air Conditioning	8th grade or Entrance Exam	
	1. Domestic Refrigeration		150 hours
	2. Commercial Refrigeration		175 hours
	3. Electrical Systems		50 hours
	4. Air Conditioning		100 hours
F.	Welding (Gas, Arc, Heliarc)	8th grade or Entrance Exam	
	1. Shop Math and Technical Drawing		40 hours
	2. Oxy-Acetylene Welding		200 hours
	3. Technical Drawing		40 hours
	4. Electrical Arc Welding		200 hours
	5. Gas Welding		125 hours
	6. Primary Arc Welding		125 hours
	7. Advanced Arc Welding		125 hours
	8. High Pressure Arc Welding		125 hours

	9. Heliarc Welding		50 hours
	10. MIG and Dual Shield Arc Welding		40 hours
G.	Auto-Deisel Technology	8th grade or Entrance Exam	2 years
H.	Heavy Equipment Operator Course I	"	40 hours
I.	Heavy Equipment Operator Course II	"	
	1. Precentive Maintenance		40 hours
	2. Motor Graders		160 hours
J.	Heavy Equipment Operator Course III	"	360 hours
K.	Heavy Equipment Operator Course IV	"	
	1. Preventive Maintenance		40 hours
	2. Back Hoe		80 hours
	3. Draglines		80 hours
L.	Heavy Equipment Operator Course V	"	
	1. Preventive Maintenance		40 hours
	2. Back Hoe		80 hours

	3. Draglines		80 hours
	4. Shovel		80 hours
	5. Clamshell		80 hours
	6. Hook Crane		40 hours
M.	Heavy Equipment Operator Course VI	8th grade or Entrance Exam	54 hours
N.	Heavy Equipment Operator and Mechanic Course VII	"	1300 hours
O.	Professional Truck Driver Course VIII	"	40 hours

APPENDIX B

Article In Wall Street Journal, Sept. 22, 1971

LEARNING A TRADE
VOCATIONAL EDUCATION BOOMS AS
JOBLESS SEEK TO ACQUIRE NEW SKILLS

YOUTHS SHUNNING COLLEGE LIFE,
VETERANS ALSO BOOST ROLLS;
BUT IS THIS A GOOD TREND?

BETTER WORKERS FOR LESS PAY

By LEWIS M. PHELPS
Staff Reporter of The Wall Street Journal

CHICAGO—After two years of study toward a degree in education, Patricia McMahon, 20, decided to become a college drop-out. "The employment situation for teachers is so bad that I was just wasting my time and money in college," she says.

So Miss McMahon quit Illinois State University in Normal—and then promptly enrolled in a vocational-education program at a junior college here to learn how to be a therapist for patients who have difficulty breathing. "I'll be able to get a job at any hospital in the country and earn $12,000 to $15,000 a year. Who needs a college degree?" she says.

More and more people like Miss McMahon are deciding that vocational education is the key to obtaining and holding a steady job. The technical and trade schools, which have long been the training ground for persons

seeking a job skill not requiring a college degree, now are being inundated with laid-off white-collar workers and college graduates who can't find jobs.

Consequently, many vocational schools are having record gains in enrolment. The U.S. Office of Education estimates enrollment at public vocational schools will jump 9% to a record 10.4 million this fall; Adult-program enrollments will soar 27% this year to 2.8 million students. Private vocational school enrollment (which is much smaller) is growing at a rapid rate, too.

A Way to Heaven

Gains at some schools are especially large.

In Illinois, a state official says adult-training programs this year will have "double, and in some subjects triple" the number of students as two years ago. Indiana's vocational-technical college system expects a 50% enrollment gain this fall from last year's 5,400. *Los Angeles Trade Technical Institute*, which claims the largest student body of any trade school in the country, says many fall-term classes were filled months ago. In past years only a few students registered before classes began.

Meanwhile, colleges and universities are showing the smallest enrollment gains in a decade, with an estimated 2.5% increase this fall. The National Association of College Admissions Counselors estimates there are 700,000 vacancies on campuses this fall.

Many educators view such trends as an indication of a healthy reevaluation of educational priorities. "Our higher-education programs are turning out more graduates than the economy can absorb. In many cases people are spending four years in colleges and aren't prepared to do any specific job when they finish," asserts Edwin L.

Rumpf, director of vocational and technical education for the U.S. Office of Education. "People are finally beginning to recognize that college isn't the only way to get to heaven."

That view is hardly unanimous, of course. "There's a lot of talk about the increasing acceptance of vocational education, but industry still pays a premium for a bachelor's degree. The people who don't get one are hurting their long-run earnings power," says Marcia Friedman, a senior research associate at Columbia University in New York. Moreover, she adds "vocational education isn't a panacea for all employment ills. Many jobs don't require any specific technical training."

Avoiding the College "Hassle"

Nevertheless, lots of people are trading the possible long-term gains of a college education for the more immediate benefits they think vocational schooling offers. Minnesota's vocational-school system in past years has drawn less than 5% of its 18,000 students from college transfers. This year it expects "well over twice" that percentage, says Robert Van Tries, assistant state commissioner of education. "Students are noticing the inability of the job market to absorb college graduates, so they're turning to vocational schools," he says.

In addition, some high school graduates who in past years might have gone to college are bypassing it in favor of trade schools. Educators say that accounts for part of the decline in admissions applications at some colleges this year. David Jawor, 18, counts himself among that group. Even though he was graduated at the top of his class at *Harrison High School* in Chicago last June, he doesn't plan to attend college. Instead, he's enrolling

in a union-sponsored work-study program to become an apprentice electrician.

"A lot of my friends agree with me that college just isn't worth the hassle anymore," he says. "You can earn just as much in the trades as you can as a professional, and you don't have the expense of four years of college either."

The laid-off people enrolling in trade schools are trying to develop new skills. Ryder Inc., which operates schools to train truck drivers and heavy-equipment operators, claims a security analyst and an economist, both out of work, are among its current students.

An Edge in the Job Market

It's clear that vocational training gives people an edge in the job market compared with those who lack formal training. National unemployment among teen-agers stands at 16%, but the rate for teens with vocational training is only 5%, the U.S. Office of Education says.

There are also indications that high unemployment levels have treated college graduates more harshly than vocational school graduates. The Office of Education estimates that 85% of those high school graduates who complete vocational programs find jobs in the field for which they were trained. That hiring rate hasn't diminished significantly during the recession, a spokesman says.

On the other hand, business hiring of college graduates dropped about 26% this year, according to a survey by the College Admissions Council, a Bethlehem, Pa., organization. "Perhaps 40% of this year's liberal-arts and education majors are unemployed or badly under-employed," says Frank Endicott, a placement official at Northwestern

University who studies the national job-placement market.

One reason for the strength in hiring of vocational graduates is that technological advances create new jobs. Persons trained in data processing, paramedical specialities, jet-engine maintenance and laser technology are in heavy demand. But vocational schools also are creating courses to fill long-standing shortages of workers in areas like diesel-engine repair, refrigeration repair and restaurant cooking.

Employers say vocational-school graduates are willing to work for less pay than college graduates will. Automatic Electric Co., a subsidiary of General Telephone & Electronics Corp., hires technical-school graduates as engineering trainees for about $400 a month less than college graduates demand. "It's a big cost saving for us," an official says.

Many employers also feel that vocational-school graduates perform certain jobs better than their college-trained counterparts. Argonne National Laboratory, an Atomic Energy Commission laboratory near Chicago, used to hire all its computer programmers from among the ranks of college graduates. Now more than half are graduates of junior colleges that provide vocational-training programs. "College graduates are more interested in broad theory than in practical application, so they tend to make more programming mistakes," an official claims. "That can get pretty costly in terms of lost computer time."

Employment pressures aren't the only reason that vocational education is booming, of course. Federal grants to state governments for vocational-school facilities and equipment will reach $458 million this year, up from $390 million last year and $168 million in 1965. State govern-

ment expenditures have been rising at an even faster pace, so the schools can handle many more students than in the past.

Then, too, veterans returning from Vietnam are swelling the ranks of vocational students. "They're really no-nonsense students," says an official of Los Angeles Trade Technical Institute. "There are always some classes, like fashion design and photography, that always attract more students than we can place in jobs. But these veterans come in and ask, 'Where are the job openings?' If we tell them 'auto repair' they sign right up. They really have their feet on the ground."

APPENDIX C

Article from October, 1971,
Publication entitled Phi Delta Kappan
pp. 82-85

William S. Graybeal

TEACHER SURPLUS AND TEACHER SHORTAGE

The surplus is real, but it would disappear tomorrow if society wanted high-quality education badly enough to pay for it.

The casual reader of educational literature may be perplexed by the seeming conflict in pronouncements about the current status of supply of and demand for public school teachers. Some observers, including the Research Division of the National Education Association, have reported that there is now a surplus of qualified teachers for most assignments, an adequate supply in several assignment areas, and shortages in a few others. Other observers, again including the NEA Research Division, have reported a continuation of teacher shortages this year; that a large shortage of teachers would exist if the public schools met minimum standards of quality in programs and staffing. The primary difference in these conclusions results from a difference in the assumptions underlying the estimate of the demand for qualified teachers.

The NEA announcement of *surpluses* reflects the comparison of the supply of qualified teachers with the numbers of teachers who *actually will* be employed for a given school year. The difference between the number of applicants and the number of positions being filled gives a picture of actual employment opportunities awaiting new graduates prepared to teach and former teachers desir-

ing to reenter teaching. This estimate of the demand for teachers includes the new teachers needed for positions related to school enrollments and for replacement of teachers leaving active employment.

The announcement of continuing teacher *shortages* is based on the comparison of the supply of qualified teachers with the numbers of teachers who *should be* employed in a given school session to attain a specified standard of educational quality at that time. This is a theoretical estimate — the shortage does not reflect the number of actual positions which will be filled as quickly as qualified applicants are available. It is useful, however, for long-term planning and evaluation. Comparison of the estimated supply with this estimate of the demand provides an indication of the possible impact of current teacher supply upon continued progress in improvement of education.

If the projected standard of quality in education is realistic in likelihood of attainment, continuing growth in the supply of new teachers accompanied by relatively small growth in school enrollments will provide sufficient staff to meet this standard in the foreseeable future.

The existence of a practical limit to the amount of financial support likely to be directed to public education should be recognized. Otherwise the projected standards of minimum quality in education programs and staffing are only speculative, since it is unlikely that they will ever be attained. Long-term planning is not meaningful if it is based on the assumption that there will always be sufficient teaching positions created to provide employment for all interested people who meet minimum qualifications for entering teaching.

The projection of an attainable standard of minimum quality in educational programs and staffing does provide, however, a long-term goal toward which such progress and the adequacy of present and future supply may be

evaluated accurately. The results of this evaluation provide information useful to institutions as they plan for future enrollments and programs. It will also be extremely valuable to college freshmen as they attempt to select programs leading to employment after their graduation three or four years from now.

The NEA report of a teacher oversupply two years ago resulted from the observation of 1) an *actual* surplus of qualified applicants for open positions, and 2) the outlook that unless present trends are changed, the supply of qualified applicants will also exceed the quality-based level of demand within the near future. For the first time in recent history the five-year outlook is for *actual* surpluses which, if accumulated, would provide more teachers than needed to attain a standard of minimum quality.

Because this sharp change in the future supply of qualified teachers calls for serious thought and action in adjusting some of the factors influencing teacher supply and demand, the NEA has established a task force which is reviewing the implications of the teacher manpower situation. The task force will provide direction to NEA efforts to accomplish more complete utilization of available teacher manpower, assist unemployed teachers, and guard against possible deleterious outcomes of a teacher surplus.

There is no question that the supply of graduates prepared to teach also is inadequate for the number of teaching-related jobs which *should* be created. Large numbers of additional jobs should be created to assure day-care services for pre-school children, to improve recreational and educational experiences for people in every age group of the population from pre-school to "golden age," and to assist large numbers of people now underparticipating in the benefits of American life (culturally different; physi-

cally, mentally, and emotionally disadvantaged; socially maladjusted; etc.). If society were to allocate sufficient resources to create enough of these additional jobs, the personnel requirements would likely exceed the estimated future surpluses of teachers. However, the present-day teacher education programs may not provide the best preparation for these teaching-related occupations. It might be more efficient to create the needed jobs in these areas and then to organize programs to prepare people for each of these areas as a specialty. This would relate their preparation directly to their future assignments and would encourage them to enter these occupations directly rather than to accept such assignments as a second choice because of difficulties in finding a teaching position.

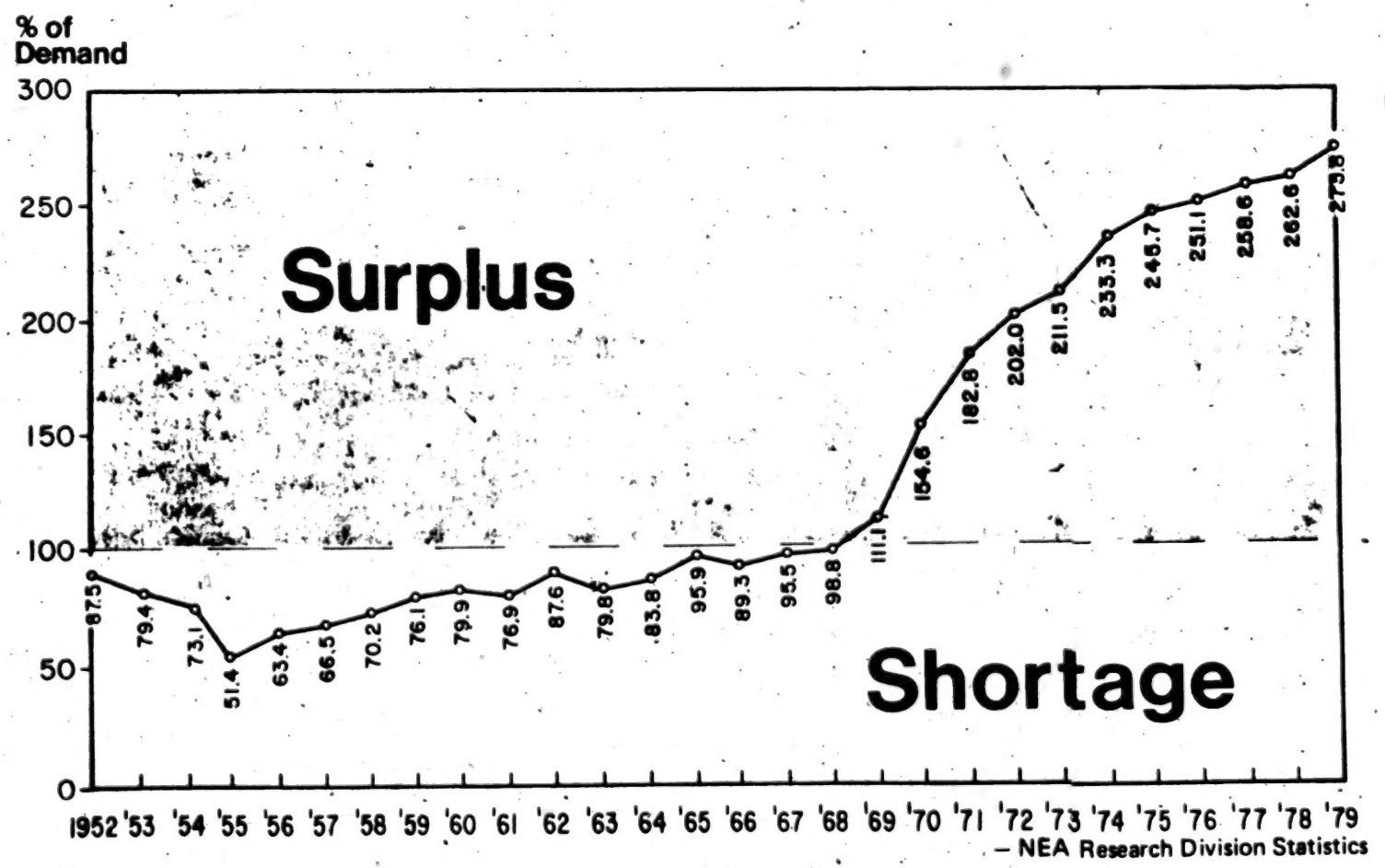
The following paragraphs summarize the considerations underlying the NEA Research Division's estimates of teacher supply and demand. Details about these estimates and the specific figures are given in the annual NEA Research Division report, *Teacher Supply and Demand in Public Schools*. The projections and the considerations underlying them are reported in the October *NEA Research Bulletin*.

The Supply

In addition to currently employed staff, the present supply of teachers comprises former teachers who have interrupted their careers; college graduates completing preparation to enter teaching positions for the first time; graduates who have postponed entry into teaching; former teachers desiring to return to teaching from supervisory, administrative, or supporting positions; and those ready to enter teaching as a second career.

Of the public school teachers employed in 1965-66, 87.4% were employed as teachers the preceding year, 8.5% were attending college or university full time, 1.6% were en-

FIGURE I
Supply of Beginning Teachers as Percent Of Normal Demand, 1952 to 1979, According To Present Trends



— NEA Research Division Statistics

gaged in homemaking or child-rearing on a full-time basis, 1.1% were working in a nonteaching occupation, and the remainder were in military service, unemployed and seeking work, or in other classifications. These estimates were obtained during a period of general teacher shortage and may not be accurate for a period in which the supply is equal to the demand for new teachers. Some of those attending college or university full time the preceding year were experienced teachers who had interrupted their careers to acquire advanced preparation. However, it is clear that the majority of new teachers (persons employed for a given school year who were not employed as teachers anywhere the preceding school year) came from the graduating classes of colleges and universities.

National estimates of the new supply of college and university graduates completing preparation to teach for the first time with minimum certification requirements have been reported annually by the NEA Research Division for 24 years. The numbers of graduates prepared to teach have represented from 26.7% (in 1950) to 36.2% (in 1971) of all graduates receiving the bachelor's and first professional degree.

NEA Research Division projections for the 1970's are for teacher education graduates to be 37% of the projected numbers of graduates receiving the bachelor's and first professional degree. Unless there is a considerable change in the emphasis given to teacher education, it seems likely that future numbers of graduates prepared to teach will continue to grow at about the same rate as the total number of college graduates.

Reflecting the growth in total number of college graduates, the supply of graduates prepared to teach in 1971

(305,711) is more than twice as large as was observed in 1961 (129,188). Projections of college and university graduates show that by 1978 the annual number of graduates prepared to teach (397,000) will be three times as large as the number in 1961.

Not all teacher-education graduates normally enter teaching immediately following graduation. Even in times of critical shortage, more than one-fourth of these prospective teachers postpone entering or decide not to enter teaching during the year following their graduation. Thus we estimate the number of beginning teachers available for entry (supply) in any period in terms of the percent of all teacher education graduates *known* to have entered teaching immediately following their graduation during a period of teacher shortage. Active interest in employment as teachers is projected to be 83.3% of graduates prepared for the elementary level and 69.2% of those prepared for the secondary level.

The annual supply of qualified graduates available for teaching positions was between 65,000 and 90,000 in the 1950's; it increased to 198,000 in the 1960's; it reached 217,750 in 1970; it is projected to grow from 229,053 in 1971 to 266,000 in 1975; it could continue to grow from 277,000 in 1976 to 308,000 in 1979. These projections show the annual supply of beginning teachers in the 1970's to be between two and three times as large as the annual supply of 80,000 to 90,000 observed during the late 1950's.

The supply of qualified persons in the pool of unemployed teachers during a given school session is difficult to estimate accurately. The 1960 U.S. Bureau of the Census reported 304,460 persons as elementary- and secondary-school teachers not gainfully employed at the time of the census. These were people who had completed at least

four years of college. An assumption that this group contains the 20-year accumulation of about 1:5% of the teaching staff employed in the public schools provides an estimate that 439,000 persons were in this pool in 1971. This source of supply will continue to grow by at least 2,000 persons each year, reflecting the growth in the total teaching staff during the past 20 years.

The number of reentering teachers employed in 1960 was 18.3% of the persons estimated to be in this pool. Because the year 1960 was in a period of general teacher shortage, this rate of entry may provide an estimate of the supply from this source if attractive positions were available. It would have meant the employment of 80,400 former teachers this fall, about 16,[illegible]00 more than the number actually employed.

Estimates of Normal Demand

The demand for new teachers to replace those leaving through normal turnover is estimated to be about 8% of the total number of teachers each year. This is derived from two studies by the U.S. Office of Education and from a series of sample surveys conducted by the NEA Research Division. Because these estimates were derived during a period of improvements in educational quality, projections using these estimates are likely to reflect a continuation of the rate of these improvements.

The numbers of experienced teachers reentering teaching after at least one year away from it have been about 3% of the total number of teachers employed the preceding year.

Normal demand, therefore, to replace teachers leaving the proofession is estimated to be about 8% of the total number of teachers, with reentering teachers filling three-eighths and beginning teachers filling the remaining five-eighths of these positions.

The number of teachers needed to handle enrollment growth was projected on the basis of recent trends of improvement in the pupil-teacher ration. Because the estimated demand for reentering teachers is basd one turnover, the demand for teachers to handle enrollment growth is treated as demand for beginning teachers.

The demand for new (beginning and reentering) teachers for replacement and enrollment change is the *actual* demand for teachers for a given year. The distribution of this actual demand among subject areas and grade levels is estimated by applying the distribution of the numbers of new teachers reported to have been employed the preceding year (23 states are currently able to report this information).

Because the number of births each year began to decline in 1962 and continued to decline each year until 1969, the enrollment potential for public schools in the 1970's will not increase significantly. The projected growth in the total number of public school teachers between 1971 and 1979 (24,000 positions) will not be as large as the growth in teachers employed in *any one* of the 10 years immediately prior to 1970 (average annual growth of 64,200 positions). As a result, the major source of demand for new teachers during the 1970's will not be increased enrollments but improvements in staffing quality and replacement of teachers in normal turnover. The total annual demand for beginning teachers after 1971 will be between 108,000 and 115,900 through 1979, less than half as large as the projected supply in each of these years (average annual supply of 271,200 between 1972 and 1979).

Quality-Based Estimates

The estimated demand for new teachers to attain minimum quality in educational programs and staffing com-

prises the normal demand described above plus the new teachers needed to reduce the number of oversize classes, to replace teachers having substandard qualifications, to enlarge school offerings and programs for pupils not now being served (kindergarten, special education, courses not offered because of shortage of qualified teachers), and to replace teachers misassigned for a major portion of their time. Precise standards for these components, however, have not been announced and validated.

During the period of teacher shortage, NEA Research Division estimates were based on the following standards for class size and minimum educational qualifications for teaching: The maximum acceptable teacher load has been 34 pupils per class in elementary grades or a teaching load of 199 pupils per day in secondary grdes. The minimum acceptable educational qualification has been the bachelor's degree. An acceptable sign of progress toward providing special education programs has been the number of teachers needed to serve half of the children requiring but not currently having special education services in a single year.

In periods of widespread teacher shortage there was little question that these were standards for rock-bottom *minimum* quality in education programs and staffing. It was accepted that each component of these standards was more than justified and that needs were much greater than the levels projected. However, in these years there were not sufficient number of qualified teachers to fill even the normal vacancies. In the current period of teacher surplus, with an adequate supply of qualified teachers available for most assignments, additional research and evaluation should guide decisions about the relative effectiveness of establishing a higher minimum acceptable level of quality in each of these areas. However, it should be re-

membered that current economic, financial, and employment trends do not suggest attainment of even the former standard for minimum quality in the immediate future, much less an improved standard.

Attainment of these minimum standards in the fall of 1971 would have required 351,200 beginning teachers, 122,100 more than the supply. But the accumulated surpluses of beginning teachers in the fall of 1969 and the fall of 1970 included 96,900 persons. This number is almost equal to the number of beginning teachers needed in 1971 to attain the minimum levels of educational quality. These facts show that unless the annual supply of beginning teachers is reduced for years following 1971, or unless the quality of educational programs and services is improved to levels above these minimum standards, the period of teacher surplus would begin in the fall of 1972 even though these minimum standards of quality are achieved.

The class size component of this minimum standard probably has least professional acceptance. A very desirable revision — maximum class size of 24 in elementary grades and maximum teaching load of 124 in secondary grades — would be a professionally more acceptable *minimum standard.* Further reduction would also be desirable to meet a professionally acceptable standard for most effective instruction.

Achievement of such a revised minimum standard (based on class size maximums listed above) would have required the employment of 729,900 beginning teachers in the fall of 1971, 500,800 more than the number available at that time. This revised standard would have required the addition of 565,800 teaching positions, an increase of 27.7% over the total number of teachers in public schools in 1971.

The number of beginning teachers needed to attain this revised standard of minimum quality is approximately equal to the projected surpluses of beginning teachers between 1970 and 1974 (573,100) persons. Our present course will provide adequate potential staff to attain this revised standard of minimum quality in 1974, at which time the projected continuing growth in teacher supply would create a period of teacher surpluses beginning with that year.

Present trends are for future annual supplies of beginning teachers to be considerably larger than normal demand. The present margin is sufficient for supplying the increased numbers of beginning teachers which will be needed if the rates of school improvements are increased. The likelihood of an increasingly abundant supply of beginning teachers in the future gives reason for the profession to direct attention to two goals: 1) increasing the demand for beginning teachers through rapid improvements in educational quality, and 2) selectively decreasing the future numbers of graduates prepared to teach. In view of the prospect of a surplus, it should be remembered that there will continue to be a need for at least 100,000 beginning teachers annually for the next decade.

APPENDIX D

Illinois Revised Statutes, Ch. 122 (1969)

30—1. § 30-1. **Number—Teachers scholarships.** There shall be awarded annually at the end of each school year to each recognized public, private and parochial high school maintaining the twelfth grade with an enrollment of fewer than 500 students, 5 scholarships; to each such school with an enrollment of 500 or more students, one scholarship for each 100 students enrolled.

In addition to the scholarships awarded to high schools on the basis of enrollment, there shall be awarded annually at the end of each school year each recognized junior college with an enrollment of fewer than 500 students, 4 scholarships; to each such junior college with an enrollment of 500 to 1,000 students, inclusive, 5 scholarships; and to each such junior college with an enrollment of more than 1,000 students, 6 scholarships. The scholarships provided in this paragraph shall entitle holders thereof to the privileges set forth in Section 30—13 except that the scholarships provided in this paragraph shall be for a period of not more than 2 calendar years and shall be available for use at any time during such period of study except as provided in Section 30—14.

In addition to the scholarships award to high schools and junior colleges on the basis of enrollment, there may be awarded annually at the end of each school year not more than 15 scholarships to persons receiving High School Equivalency Certificates during the preceding year and who have achieved an average standard score on all tests of General Educational Development of 50 or above. The scholarships provided in this paragraph

shall entitle the holders thereof to the privileges set forth in Section 30—13.

30—2. § 30.2 **Certification by principal—Scholastic rank.** On or before March 1 in each year, the principal of each recognized public, private and parochial high school maintaining the twelfth grade or junior college shall certify to the county superintendent of schools of the county in which such high school or junior college is located the names and addresses of all students who ranked scholastically in the upper one-half of their graduating class and who graduated from such school during the preceding school year in the order of their scholastic rank in the four-year high school or junior college course of study at the end of the seventh semester. The name of no student shall be so certified unless he signifies in a letter presented to the principal his intention to prepare to teach in the public schools of Illinois. As amended by act approved July 24, 1967. L.1967, p. 1996.

HIGHER EDUCATION STUDENT ASSISTANCE LAW

30—15. § 30-15. **Short Title.** Sections 30—15.1 through 30—15.13 shall be known and may be cited as the "Higher Education Student Assistance Law". As amended by act approved Aug. 3, 1967. L.1967, p. 2644.

30—15.1. § 30-15-1. **Purpose.** The General Assembly has found and hereby declares that the provision of a higher education for all residents of this State who desire such an education and are properly qualified therefor is important to the welfare and security of this State and Nation, and consequently is an important public purpose; many qualified students are deterred by financial considerations from completing their education, with a consequent irreparable loss to the State and Nation of

talents vital to welfare and security. The number of qualified persons who desire higher education is increasing rapidly, and the physical facilities, faculties, and staffs of the institutions of higher learning operated by the State will have to be expanded greatly to accomodate such persons, with an attendant sharp increase in the cost of educating such persons. A system of financial assistance of scholarships, grants, and guaranteed loans for qualified residents of college age will enable them to attend qualified insitutions of their choice in the State, public or private. As Amended by act approved Aug. 3, 1967. L. 1967, p. 2644.

30—15.2 § 30—15.2. **Definitions.** The following words and phrases have the following respective definitions for the purposes of the Higher Education Student Assistance Law[1] except to the extent that any such word or phrase is specifically qualified by its context:

* * *

(c) "Approved high school": any public high school located in this State; any any high school, located in the State or elsewhere (whether designated as a high school, secondary school, academy, preparatory school, or otherwise) which in the judgment of the Superintendent provides a course of instruction at the secondary level, and maintains standards of instruction, substantially equivalent to those of the public high schools located in this State.

(d) "Institution of higher learning", "qualified institution", or "Institution": for the purpose of Higher Education Student Assistance, an educational organization located in this State which provides (1) at least an organized two-year program of collegiate grade in the liberal arts or sciences, or both, directly applicable toward the attainment of a baccalaureate degree, (2) which

either is, (a) operated by this State, or (b) operated publicly or privately, not for profit, and (3) in the judgment of the Commission meets standards substantially equivalent to those of comparable institutions operated by this State. For the purpose of Sections 30—15.10 through 30—15.13, the term "Institution of Higher Learning" includes educational institutions located in other States and Territories, graduate schools, professional colleges, nursing schools, and any business, trade technical or vocational school which (1) has been in existence at least 2 years (2) provides not less than 300 hours of classroom instruction or its equivalent, and (3) is accredited by a nationally recognized accrediting association or meets standards established by the State Scholarship Commission.

30—15.3 § 30—15.3. **State Scholarship Commission.** (a) There is established the State Scholarship Commission, consisting of 7 persons to be appointed by the Governor. The membership of the Commission shall consist of 1 representative of the institutions of higher learning operated by the State; 1 representative of the private institutions of higher learning located in the State; 1 representative of the public high schools located in the State; and 4 citizens of the State chosen for their knowledge of and interest in higher education, but not employed by, professionally affiliated with, or members of the governing boards of, any institution of higher learning located in the State. The Governor shall designate 1 member as chairman. Each member of the Commission shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in performing his duties under this Act.

30—15.5 § 30—15.5. Eligibility for First Year Assistance—Scholarship. (a) An Applicant is eligible for the award of a first-year scholarship under the provisions of the Higher Education Student Assistance Law when the Commission finds:

(1) that he is a resident of this State and a citizen of the United States;

(2) that he is a person of good moral character;

(3) that he has successfully completed the program of instruction at an approved high school within 6 academic years prior to the first academic year of the award, or is a student in good standing at such a school and is engaged in a program which in due course will be completed by the end of the academic year, and in either event that his scholarship is above the median for his class; and that he has not had any university, college, normal school, junior college or other advanced training subsequent to his graduation from high school;

(4) that his financial resources are such that, in the absence of scholarship aid, he will be deterred by financial conidserations from completing his education at the qualified institution of his choice; and

(5) that he has superior capacity to profit by a higher education.

(b) In determining an applicant's superior capacity to profit by a higher education, the Commission shall consider his scholastic record in high school and the results of the examination conducted under the provisions of this Act. The Commission shall establish by rule the minimum conditions of eligibility in terms of the foregoing factors, and the relative weight to be accorded to such factors. Subject to the provisions of Sections 30—15.7 (a) of

this Act, the available scholarships shall be awarded to the applicants with the highest qualifications, in the order of merit.

(c) The functions of the Commission shall be exercised without regard to any applicant's race, creed, sex, color, national origin, or ancestry. As amended by act approved Aug. 3, 1967. L. 1967, p. 2644.

30—15.7a § 30—15.7a. **Additional Assistance—Grants.** In addition to the scholarships provided for in Section 30—15.7, the Commission shall, each year, receive and consider applications for financial aid under the terms of this Act. The applications shall be submitted by qualified institutions on behalf of their admitted or enrolled students or directly to the Commission by admitted or enrolled students in qualified institutions. Applicants must meet conditions of eligibility prescribed by this Act in Section 30—15.5, paragraph (a), subparagraphs 1, 2, 4 and Section 30—15.5, paragraph (c). Funds for such financial assistance shall be by separate appropriation with grants beginning in September 1967. The amount of stipend shall be that specified by section 30—15.7, paragraph (c) of this Act. The Commission may establish for grant winners under this Section and expectation from the applicant in financial resources which would differ from scholarship winners as described in Section 30—15.7. As amended by act approved Aug. 3, 1967. L. 1967, p. 2644.

APPENDIX E

Characteristics Of The Various AFDC Programs*

State	Age & School Requirements	Definition of Dependent Children	Statutory Citation
Alabama	Under 21 years. If 18 and under 21, must be regularly attending grade school, high school, college, or vocational or technical school. [hereafter referred to as the "STANDARD DEFINITION"]	Deprived of parental support or care by reason of death, continued absence from home or physical or mental incapacity of a parent and living with relatives listed (1) in the Federal Act or (2) in the Federal Act as interpreted [STANDARD DEFINITION] except spouses of step-, great-relatives or of first cousin, nephew or niece; or in foster care as provided under Federal Act.	Code of Alabama Title 49, §17(2) (1958)

Alaska	Under 18 years.	Standard Definition (1) and (2) or in foster care as provided under Federal Act.	Alaska Statutes §47.25.410(3) (19—Supp.)
Arizona	Standard Definition—College excluded.	Standard Definition (1 only) or in a foster home.	Arizona Revised Statutes §46-101 (1971 Supplement)
Arkansas	Standard Definition—Unless prevented by physical or mental incapacity. College excluded.	Standard Definition (1) and (2).	Arkansas Statutes, Sec. 83-127 1969 Supp.
California	Standard Definition—Must be unmarried;attending school unless physically or mentally disabled. College excluded.	Standard Definition (1) and (2).	California Welfare and Institutions Code, Sec. 112-53 (1971 Supp.)
Colorado	Standard Definition.	Standard Definition (1) and (2). Also include in-laws but exclude spouses of great-relatives.	Colorado Revised Statutes, Chapter 22, Article 11-1 (1963)

Connecticut	Under 19 yrs. At 19 must be in full time attendance in secondary school only.	Standard Definition (1) and (2). Includes foster home and excludes great-, or adoptive and their spouses.	Connecticut General Statutes Annotated, Section 17-82 (1971 Supp.)
Delaware	Under 18 years.	Standard Definition (1) and (2). Includes foster home and excludes great-, adoptive, and their spouses.	Delaware Code Annotated, Title 31 §504 (1970 Supp.)
Florida	Under 18 years.	Standard Definition (1) and (2) or in foster care.	Florida Statutes Annotated, Chapter 39, §39.01
Georgia	Under 18 years. If 16 or 17 years, must be attending high school or vocational school unless handicapped.	Standard Definition (1) and (2) except first cousin, nephew or niece, great-, adoptive, and their spouses. Includes foster care.	Code of Georgia Annotated, §99-902 (1968)
Hawaii	Standard Definition.	Standard Definition (1) and (2) except great-, adoptive and their spouses. Foster care included.	Hawaii Revised Statutes, Chapter 346, §55 (1970 Supp.)

Idaho	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Statute not available Public Assistance Report No. 50
Indiana	Standard Definition—College excluded.	Standard Definition (1) and (2) except first cousin, nephew or niece. Foster care included.	Indiana Code of 1971 §12-1-7-1
Iowa	Under 20 years; if 16 to 20 years must attend grade, high or vocational school.	Standard Definition (1) and (2) except first cousin, nephew, neice, great-, adoptive and their spouses. Foster care included.	Iowa Code Annotated Ch. 239, §239.1
Kansas	Standard Definition.	Standard Definition (1) and (2) including foster home.	Kansas Statutes Anno. Chap. 39-702 (1968 Supp.)
Kentucky	Under 21 years. Children of school age are required to comply with compulsory school attendance law except when exempted. Child 16	Standard Definition (1) and (2). Includes foster home or private child care institution.	Statute not available Public Assistance Report No. 50

	or 17 must be regularly attending school, college or university, or taking a vocational or technical training course unless he has been previously exempt from school attendance for physical or mental conditions. If 18 and under 21, school attendance same as for those under 18 but not eligible if previously exempted from school for physical or mental condition.		
Louisiana	Standard Definition.	Standard Definition (1) and (2).	Louisiana Revised Statutes Anno. Ch. 46:231, 1971 Supp.
Maine	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Maine Revised Statutes, Title 22 §3741 (1964)

Maryland	Standard Definition.	Standard Definition (1) and (2). Includes foster home or private child care institution.	Statute not available Public Assistance Report No. 50
Massachusetts	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Anno. Laws of Mass. Ch. 118, §1 (1970 Supp.)
Michigan	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Mich. Statutes Anno. §16.456 (1968 Revision)
Minnesota	Under 19 years. Below 18 years attending high school, college or vocational school.	Standard Definition (1) and (2). Foster care included.	Minn. Statutes Anno. §256.12 (1970)
Mississippi	Under 18 years. If 16 or 17 years, attending school unless physically or mentally disabled.	Standard Definition (1) and (2) except great-, adoptive and their spouses. Foster care included.	Miss. Code Anno. §7172 (1970 Supp.)
Missouri	Under 18 years. If between 7 and 18 attending school unless incapacitated.	Standard Definition (1) and (2). Foster care included.	Missouri Revised Statutes, Ch. 208 §208.040 (1959)

Montana	Standard Definition.	Standard Definition (1) and (2) except great-, adoptive and their spouses. Foster care included.	Revised Code of Montana §71-501 (1947)
Nebraska	Standard Definition.	Standard Definition (1) and (2) excluding great-great relatives. Foster care included.	Revised Statutes of Neb. §43-504 (1969 Supp.)
Nevada	Standard Definition—excluding college.	Standard Definition (1) and (2) interpreted except great-, adoptive and their spouses. Foster care included.	Nev. Revised Stats., Ch. 425, §425.030 (1969)
New Hampshire	Standard Definition.	Standard Definition (1) and (2) except great-, adoptive and their spouses. Foster care included.	New Hamp. Revised Statutes, Ch. 167, §167:6 (1969 Supp.)
New Jersey	Standard Definition.	Standard Definition (1) and (2). Foster care included.	New Jersey Statutes Anno. §30:4c-2 and §30:4c-31

New Mexico	Under 21. If 16 or 17, must be regularly attending school or unable to attend because of physical or mental impairment. If 18 and under 21, must be regularly attending school, college or university, or a course of vocational or technical training and making satisfactory progress.	Standard Definition (1) and (2) except for qualification that the incapacity must not be cured or alleviated within 30 days. Foster home included.	Statute not available Public Assistance Report No. 50
New York	Standard Definition.	Standard Definition (1) and (2). Foster home included.	McKinney's Consolidated Laws of N. Y., Vol. 52a §349 (1970 Supp.)
No. Carolina	Standard Definition—College excluded.	Standard Definition (1) and (2). Foster care included.	Gen. Statutes of N. C. Chapter 108, §108-49, §108-50 (1966)
No. Dakata	Standard Definition—excluding college, except if under 18 years living	Deprived of parental support by reason of death, absence from	N. D. Century Code, Ch. 50, §50-09-01 (1971)

	in home of relative by blood, marriage or adoption.	home or mental or physical incapacity of parent and living with a relative by birth, marriage or adoption. Foster care included.	
Ohio	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Baldwin's Ohio Revised Code, Ch. 5107, §5107.03 (1971)
Oklahoma	Standard Definition.	Standard Definition (1) and (2) except great-, adoptive and their spouses. Foster care included.	Okla. Statutes, Ch. 56 §164 (1961)
Oregon	Standard Definition.	Standard Definition (1) and (2) includes foster care.	Oregon Revised Statutes, Ch. 418 §418.035
Pennsylvania	Standard Definition.	Standard Definition (1) and (2).	Purdon's Pennsylvania Stat. Anno. Title 62, §432(1)
Puerto Rico	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Statute not available Public Assistance Report No. 50

Rhode Island	Standard Definition.	Standard Definition (1) and (2) includes foster care.	General Laws of Rhode Island Title 40, §40-9-9
So. Carolina	Standard Definition.	Standard Definition (1) and (2) except great-, adoptive relatives and their spouses; foster care included.	Code of Laws of South Carolina §71-91 (1970 Supp.)
So. Dakota	Standard Definition—College excluded.	Standard Definition (1) and (2); step-parents excluded; foster care included.	South Dakata Compiled Laws Ch. 28-7, §28-7-1 (1971 Supp.)
Tennessee	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Tennessee Code Anno., Title 14, §14-302, 303 (1970 Supp.)
Texas	Standard Definition.	Standard Definition (1) and (2) except for spouse, relatives who have assumed parental role and great-adoptive relatives and their spouses.	Vernon's Anno. Revised Civil Statutes of Texas Article 695c, §17

Utah	Under 21 years.	Deprived of parental care.	Utah Code Annotated Title 55, §55-15-23 (1971 Supp.)
Vermont	Standard Definition.	Standard Definition (1) and (2).	Vermont Statutes Anno. Ch. 32, §2701 (1971 Supp.)
Virginia	Standard Definition.	Standard Definition (1) and (2) except great-, or adoptive relatives and their spouses; foster care included.	Code of Virginia Title 63.1, §63.1-105 (1971 Supp.)
Washington	Standard Definition—College excluded.	Standard Definition (1) and (2) except great-, or adoptive relatives and their spouses; foster care included.	Revised Code of Washington Anno. Ch. 74.12, §74.12-010 (1962)
West Virginia	Standard Definition.	Standard Definition (1) and (2). Foster care included.	West Virginia Code, Ch. 9, §9-5-5 (1967)

Wisconsin	Under 18 years.	Standard Definition (1) and (2) except great-, or adoptive relatives and their sopuses; foster care included.	West's Wisconsin Statutes Anno. Ch. 49, §49.19 (1971 Supp.)
Wyoming	Standard Definition.	Standard Definition (1) and (2). Foster care included.	Wyoming Statutes Title 42, §42-8 (1971 Supp.)

*This Appendix is predicated partly upon HEW's Public Assistance Report No. 50, 1970 Edition, "Characteristics of State Public Assistance Plans Under the Social Security Act." When the appellees' law clerks sought the statutory authority for the Report, they found numerous differences between the Report and the statutes. This may be due to information which HEW has from state regulations, court decisions or administrative policies. Where there was a difference between the HEW description of a state plan and the state statute, the statute was accepted if the statute was more recent than the report or if, in one or two instances, there was reason to believe that a secretarial error had been made in compiling the Report.

(1) When reference is made to "relatives listed in the Federal Act," that means father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece.

(2) "Relatives listed in the Federal Act as interpreted" denotes in addition to the above, any blood relative (not beyond first cousin, nephew or niece) including those of half-blood, relationships to persons of preceding generations as denoted by prefixes of grand, great or great-great; persons who legally adopt a child or his parents as well as the natural and other legally adopted children of such persons; and spouses of any of these persons even though the marriage is terminated by death or a divorce.